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Felony Sentencing and Probation

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Felony Sentencing and Probation

Introduction

In Wisconsin, a felony is defined as any criminal offense that is punishable by imprisonment in state prison. All other criminal offenses are classified as misdemeanors. Any person age 17 years or older who commits a felony or misdemeanor is considered an adult and may be sentenced to confinement or placed on probation, and/or fined. Under some circumstances, persons under the age of 17 may be charged and sentenced as an adult. Offenders sentenced to at least one year of incarceration are imprisoned in state correctional facilities, while offenders sentenced to less than one year, whether for a felony or misdemeanor, are confined in county jails.

For all felony offenses committed on or after December 31, 1999, except for those punishable by life imprisonment, offenders sentenced to prison are given a bifurcated (two-part) sentence, under which a sentencing judge specifies an amount of time an offender will serve in prison and an amount of time an offender will serve in the community on extended supervision. The bifurcated (determinate) sentencing structure is commonly known as "truth-in-sentencing." Judges may also fine an offender in addition to, or instead of, imposing a bifurcated sentence or jail term, or may place an offender on probation. In addition, certain serious sex offenders may be placed on lifetime supervision after the expiration of their sentence or upon completion of probation. Offenders sentenced to life imprisonment do not receive a bifurcated sentence, but rather may petition the court for release to extended supervision under specific circumstances.

For all felony offenses committed before December 31, 1999, convicted felons may be: (a) sentenced to an indeterminate term of

imprisonment; (b) sentenced to the intensive sanctions program; or (c) placed on state-supervised probation. As under a bifurcated sentence, an offender may also be fined in addition to, or instead of, any other punishment. This sentencing structure is referred to as "indeterminate" because offenders may be paroled from prison and discharged from supervision prior to serving the maximum sentence imposed by the court.

Once a court sentences a felony offender to confinement in state prison, the offender is transferred to the custody of the Department of Corrections (Corrections). After a period of assessment and evaluation at the Dodge Correctional Institution in Waupun (for male inmates) or the Taycheedah Correctional Institution in Fond du Lac (for female inmates), Corrections determines which correctional facility is appropriate for a sentenced offender.

In sentencing offenders for misdemeanor offenses, judges may imprison an offender in a county jail or place a person on probation. Maximum misdemeanor imprisonment ranges from not more than 30 days for a Class C misdemeanor to not more than nine months for a Class A misdemeanor (an exception would be if a penalty enhancement is applied, increasing an offender's term of imprisonment). Offenders in jail for sentences of at least four days are eligible to earn good time credit of up to 25% of the court-imposed sentence. The county has custody of misdemeanants sentenced to county jail. Corrections supervises misdemeanants placed on probation by the court.

This paper addresses the various sentencing options by which an offender may be placed under state supervision in the adult programs of the Department of Corrections.

In this paper the following terms are used:

1. "Incarceration" or "Confinement." Placement of an offender in a state correctional facility or county jail.

2. "Parole." Release of an offender sentenced under an indeterminate sentence to the community under the supervision of the Department of Corrections. Corrections may discharge a person from parole prior to the person serving the maximum sentence imposed by the court.

3. "Mandatory Release." Release from prison to parole supervision after serving two-thirds of an indeterminate sentence established by the court for offenses occurring before December 31, 1999.

4. "Extended Supervision." Release of an offender as part of a bifurcated sentence or release of an offender sentenced to life imprisonment to the community under the supervision of Corrections.

5. "Probation." Placement of an offender under the supervision of Corrections in the community without confinement in state prison, although confinement in a county jail may be required. An offender placed on probation is subject to conditions imposed by the court and/or Corrections.

Truth-in-Sentencing I – Bifurcated Sentences for Offenses Committed on or after December 1, 1999, and before February 1, 2003

Under 1997 Act 283, a bifurcated (determinate) sentencing structure was created for all felony offenses. Under this structure, courts are required to impose a bifurcated (two-part) sentence for any felony occurring on or after December 31, 1999, except for felonies resulting in a life sentence. Prior to Act 283, offenders were sentenced

under an indeterminate sentencing structure. Appendix I provides a description of indeterminate sentencing for felony offenses occurring before December 31, 1999.

A bifurcated sentence consists of a term of confinement in prison followed by a term of extended supervision in the community. The term of confinement in prison cannot be less than one year, subject to any minimum sentence prescribed for the felony and any penalty enhancement. If the maximum term of confinement in prison is increased by a penalty enhancement, the total length of the bifurcated sentence (confinement plus extended supervision) that can be imposed is increased by the same amount.

When sentencing a felon, judges may specify that sentences run concurrently or consecutively. The length of sentence may be increased for certain offenders by penalty enhancers for activities such as habitual criminality, use of a dangerous weapon, or repeated serious sex crimes. These penalty enhancers are discussed in a subsequent section of this paper.

At sentencing a judge may also make certain offenders eligible for a decrease in the length of the confinement portion of a bifurcated sentence after successful completion of an early release program. Persons serving a bifurcated sentence are only eligible for the challenge incarceration program ("boot camp") or the Wisconsin substance abuse program ("earned release") if the sentencing court specifies that they are eligible. If an eligible person successfully completes one of these programs, the judge is required to reduce the prison portion of the sentence so the person is released to supervision, while the supervision portion of the sentence is increased by a corresponding amount, resulting in the same total sentence length. These programs are discussed in a subsequent section of this paper.

The penalty to which an individual may be subject is based on the penalty for a specific offense

at the time the offense occurred. Felony offenses, committed prior to February 1, 2003, are identified as either classified felonies or unclassified felonies. All felony offenses occurring on or after February 1, 2003, (with the exception of four offenses) were placed under a classification system by 2001 Act 109, and are identified in Appendix II. [A list of classified felony offenses, prior to February 1, 2003, can be found in the 2019 Legislative Fiscal Bureau Informational Paper 53 entitled, "Felony Sentencing and Probation," Appendix II. For unclassified felonies, Appendix III of the same publication provides a comparison of felony penalties under bifurcated and indeterminate sentences.]

The maximum sentence (confinement time plus extended supervision) for classified felonies occurring on or after December 31, 1999, and before February 1, 2003, is: (a) life for Class A felonies; (b) 60 years for Class B felonies; (c) 30 years for Class BC felonies; (d) 15 years for Class C felonies; (e) 10 years for Class D felonies; and (f) five years for Class E felonies. The maximum term of confinement for these is: (a) life for Class A felonies; (b) 40 years for Class B felonies; (c) 20 years for Class BC felonies; (d) 10 years for Class C felonies; (e) five years for Class D felonies; and (f) two years for Class E felonies. For any felony other than a felony listed above, the term of confinement in prison cannot exceed 75% of the total length of the bifurcated sentence. Modifications to the bifurcated sentence structure were enacted under 2001 Act 109, effective February 1, 2003, and are discussed in the following section.

The extended supervision portion of the bifurcated sentence may not be less than 25% of the length of the term of confinement in prison. The court may impose conditions on the term of extended supervision. A person serving a bifurcated sentence is not eligible for parole or mandatory release, nor eligible for sentence reduction for good behavior. Corrections is prohibited from discharging a person serving a bifurcated sentence from custody, control and supervision until the person

has served the entire bifurcated sentence, including any periods of extension in prison imposed by Corrections for disciplinary reasons. The court is required to inform a person being sentenced of Corrections' ability to extend a sentence for disciplinary reasons as described below.

An inmate imprisoned under a bifurcated sentence is not eligible for release to extended supervision until the court-specified term of confinement is completed. A warden or superintendent of a correctional facility is required to keep a record of the conduct of each inmate, specifying each infraction of the rules. If an inmate violates any regulation of the prison or refuses or neglects to perform required or assigned duties, Corrections may extend the term of confinement as follows:

1. 10 days for the 1st offense.
2. 20 days for the 2nd offense.
3. 40 days for the 3rd or each subsequent offense.

In addition to the above sanctions, if an inmate is placed in adjustment, program, or controlled segregation status, Corrections may extend his or her term of confinement by a number of days equal to 50% of the number of days spent in segregation status. Corrections is required to use the definition of adjustment, program, or controlled segregation (termed "controlled separation" by the Department's Administrative Code) status under administrative rules in effect at the time an inmate is placed in that status. No extension of a term of confinement may require an inmate to serve more days in prison than the total length of the bifurcated sentence. If the term of confinement in prison is increased, the term of extended supervision is reduced so that the total length of the bifurcated sentence is not changed.

All consecutive bifurcated sentences are computed as one continuous sentence. A person serves any term of extended supervision only after serving all terms of confinement in prison. An inmate is allowed to waive entitlement to release to

extended supervision if Corrections agrees to the waiver.

Before a person is released to extended supervision, Corrections is required to notify the municipal police department and the county sheriff for the area where the person will be residing (unless the requirement is waived by the municipal police department or county sheriff). Inmates released to extended supervision are subject to all conditions and rules of extended supervision until the expiration of the extended supervision portion of the bifurcated sentence. Corrections may establish conditions of extended supervision, in addition to any conditions set by the court at sentencing, if the conditions set by Corrections do not conflict with the court's conditions.

If a person released to extended supervision violates a condition of that placement, the Division of Hearings and Appeals in the Department of Administration or Corrections (if the person on extended supervision waives a hearing) may revoke the extended supervision of the person. If the person is returned to prison, he or she may be returned for any specified period of time that does not exceed the time remaining on the bifurcated sentence. The term "time remaining" is defined as the total length of the bifurcated sentence, less time served in custody before release to extended supervision. The period of reincarceration time may be extended for disciplinary reasons.

A person sentenced to life imprisonment for crimes committed on or after December 31, 1999, is not given a bifurcated sentence and is not eligible for release on parole. Instead, the court determines one of the following eligibility dates for extended supervision:

1. After serving 20 years.
2. On a date set by the court that is later than 20 years.

3. The person is not eligible for release to extended supervision.

When sentencing a person to life imprisonment, the court is required to inform the person of Corrections' ability to delay eligibility for extended supervision for release for disciplinary reasons. The court must also inform the person sentenced to life imprisonment of the procedure for petitioning for release to extended supervision.

A person sentenced to life imprisonment for crimes occurring on or after December 31, 1999, is generally subject to the same sentencing provisions as other offenders, except that the following specific provisions also apply:

1. No individual sentenced to life without the possibility of extended supervision may be placed on extended supervision.

2. An inmate serving a life sentence with the possibility of extended supervision may not petition the sentencing court for release to extended supervision until after either: (a) he or she has served 20 years, if the inmate is given a sentence allowing that possibility; or (b) he or she reaches the extended supervision eligibility date set by the court.

3. An inmate serving a life sentence who seeks release to extended supervision is required to file a petition for release with the court that sentenced him or her. An inmate may not file an initial petition earlier than 90 days before his or her extended supervision eligibility date. If an inmate files an initial petition for release to extended supervision at any time earlier than 90 days, the court will deny the petition without a hearing. An inmate filing for release must also serve a copy of a petition for release on the district attorney's office that prosecuted him or her, and the district attorney must give a written response to the petition within 45 days after he or she receives the petition.

After reviewing a petition for release and the district attorney's response, the court will decide whether to hold a hearing on the petition or whether to grant or deny the petition without a hearing. If the court decides to hold a hearing, the hearing must be without a jury.

4. Before deciding whether to grant or deny the inmate's petition, the court must allow a victim the option to make a statement or submit a statement concerning the release of the inmate to extended supervision. The court may also allow any other person to make or submit a statement. Any statement, however, must be relevant to the release of the inmate to extended supervision.

In order to be released to extended supervision, an inmate is required to prove to the court, by clear and convincing evidence, that he or she is not a danger to the public. If the court grants the inmate's petition for release, the court may impose conditions on the term of extended supervision. If the court denies the inmate's petition, the court is required to specify the date on which the inmate may file a subsequent petition. An inmate may file a subsequent petition at any time on or after the date specified by the court, but if the inmate files a subsequent petition for release to extended supervision before the date specified by the court, the court may deny the petition without a hearing.

An inmate may also appeal an order denying his or her petition, but the appellate court is required to determine only whether the court properly exercised its discretion in denying the petition.

5. A person serving a life sentence who is returned to prison after revocation of extended supervision is required to be incarcerated for at least five years, after which period of time the person may, upon petition to the sentencing court, be released to extended supervision. An inmate may not file a petition earlier than 90 days before the end of the reincarceration period, which includes any extensions for prison rules violations.

6. If a person serving a life sentence files a petition for release, the clerk of the circuit court in which the petition is filed is required to send a copy of the petition and, if a hearing is scheduled, a notice of hearing to victims who request notification. The Director of State Courts is required to design and prepare victim address cards to send to the clerks of the circuit courts, without charge. The clerks of the circuit courts are then required to provide the cards, without charge, to victims.

**Truth-in-Sentencing II –
Modifications to Bifurcated Sentencing
on or after February 1, 2003**

In addition to creating the bifurcated sentencing structure, 1997 Act 283 created an 18-member Criminal Penalties Study Committee to study and prepare a report on: (a) the classification of criminal offenses in the criminal code (Chapters 939 to 951 of the Wisconsin Statutes); (b) the penalties for all felonies and Class A misdemeanors; and (c) other issues related to the implementation of the changes in sentencing made in the Act. The Committee submitted its final report on August 31, 1999, with recommendations for modifying the bifurcated sentencing structure. Most of the Committee's recommendations were enacted under 2001 Act 109 and became effective February 1, 2003. The most significant changes included: (a) modifying the classes of felonies and providing statutory caps on the extended supervision portion of the bifurcated sentence; (b) modifying maximum fines; (c) creating sentencing guidelines; (d) specifying the order in which penalty enhancers are applied; (e) providing mechanisms for offenders to petition to the sentencing court to modify a sentence; (f) modifying the terms of extended supervision; (g) providing a new sanction for violation of extended supervision conditions; and (h) providing that the sentencing court determines the length of time an offender will be returned to prison for revocation of extended supervision. These changes are

described below.

It should be noted that the 2009-11 biennial budget act, 2009 Act 28, included sentencing modifications that impacted these provisions, effective October 1, 2009. Further, 2011 Act 38 revised some of the 2009 Act 28 modifications, effective August 3, 2011. The 2009 Act 28 and 2011 Act 38 provisions are described in a subsequent sections of this paper.

Felony Classification. Under the modified bifurcated sentence structure, the previous six classes of felonies were expanded to nine (Class A through Class I). Generally, classified crimes were reclassified as follows: (a) Class A felonies became Class A or B felonies; (b) Class B felonies became Class C felonies; (c) Class BC felonies became Class D or E felonies; (d) Class C felonies became Class F or G felonies; (e) Class D felonies became Class H felonies; and (f) Class E felonies became Class I felonies.

Table 1 compares the maximum bifurcated sentences (confinement in prison plus extended supervision) for indeterminate sentencing (discussed in Appendix I) for crimes occurring before December 31, 1999, the bifurcated sentences for crimes under the prior felony classifications (Truth-in-Sentencing I), and for the current nine felony classes under Truth-in-Sentencing II. Table 2 shows the maximum term of imprisonment under the revised felony classes (excluding time that may be imposed for misconduct in prison or return after revocation), and also shows the mandatory release times under indeterminate sentencing for crimes committed prior to December 31, 1999.

Appendix II identifies all current law felony offenses as classified beginning February 1, 2003.

Table 3 summarizes the maximum confinement and extended supervision times under the modified bifurcated sentencing structure.

Maximum Fines. For crimes occurring prior to February 1, 2003, the maximum fine for classified felonies is \$10,000. For unclassified felonies, the range of fines varies by offense from \$25 to \$1,000,000. Beginning February 1, 2003, the maximum fines that may be imposed by the sentencing court also increased: (a) Classes C and D, \$100,000; (b) Class E, \$50,000; (c) Classes F and G, \$25,000; and (d) Classes H and I, \$10,000.

Consideration of Aggravating and Mitigating Factors, and Sentencing Guidelines. During sentencing, the court must decide whether to impose a bifurcated sentence or place the person on probation, the length of sentence or probation, and the amount of a fine, if any. When making a sentencing decision for an offense committed on or after February 1, 2003, a court is required to consider all of the following:

1. Protection of the public.
2. Gravity of the offense.
3. The rehabilitative needs of the defendant.
4. Any applicable mitigating factors and any applicable aggravating factors.

In addition, a court is required to consider all of the following as aggravating factors, if applicable (unlike aggravating factors, mitigating factors are not specified by statute):

1. The person committed the crime while his or her usual appearance was concealed, disguised, or altered, with the intent to make it less likely that he or she would be identified with the crime.
2. The person committed the crime using information that was disclosed to him or her from the state's sex offender registry.
3. The person committed the crime for the benefit of, at the direction of, or in association with any criminal gang, with the specific intent to

Table 1: Maximum Total Sentence (Confinement in Prison Plus Parole or Extended Supervision)

Classification	Maximum Sentence for Crimes Occurring		Classification	Maximum Sentence for Crimes Occurring
	Before 12/31/99	On or After 12/31/99 and Before 2/1/03		On or After 2/1/03
Class A	Life	Life	Class A	Life
			Class B	60 years
Class B	40 years	60 years	Class C	40 years
Class BC	20 years	30 years	Class D	25 years
			Class E	15 years
Class C	10 years	15 years	Class F	12.5 years
			Class G	10 years
Class D	5 years	10 years	Class H	6 years
Class E	2 years	5 years	Class I	3.5 years

Table 2: Maximum Time Confined in Prison

Classification	Crimes Committed Before 12/31/99		Crimes Committed On or After 12/31/99 and Before 2/1/03 Maximum Prison Sentence	Classification	Crimes Committed On or After 2/1/03 Maximum Prison Sentence
	Eligible for Parole	Mandatory Release			
Class A	Set by Sentencing Court	N/A	ES Eligibility Date Set by Sentencing Court	Class A	ES Eligibility Date Set by Sentencing Court
				Class B	40 years
Class B	10 years	26.6 years	40 years	Class C	25 years
Class BC	5 years	13.3 years	20 years	Class D	15 years
				Class E	10 years
Class C	2.5 years	6.6 years	10 years	Class F	7.5 years
				Class G	5 years
Class D	1.25 years	3.3 years	5 years	Class H	3 years
Class E	0.5 years	1.3 years	2 years	Class I	1.5 years

"ES" means extended supervision.

Table 3: Maximum Bifurcated Sentence for Offenses Committed on or after February 1, 2003

Felony Class	Maximum Term of Confinement	Maximum Extended Supervision	Maximum Total Sentence
A	Life	---	Life
B	40 years	20 years	60 years
C	25 years	15 years	40 years
D	15 years	10 years	25 years
E	10 years	5 years	15 years
F	7.5 years	5 years	12.5 years
G	5 years	5 years	10 years
H	3 years	3 years	6 years
I	1.5 years	2 years	3.5 years

promote, further, or assist in any criminal conduct by criminal gang members.

4. The person committed the felony while wearing a vest or other garment designed, redesigned, or adapted to prevent bullets from penetrating the garment.

5. The person committed the felony with the intent to influence the policy of a governmental unit or to punish a governmental unit for a prior

policy decision, if any of the following circumstances also applies to the offense: (a) the person caused bodily harm, great bodily harm, or death to another; (b) the person caused damage to the property of another and the total property damaged is reduced in value by \$25,000 or more; or (c) the person used or threatened to use force or violence. The provision would not apply to conduct arising out of or in connection with a labor dispute.

In addition to the general aggravating circumstances, courts are also required to consider the following special aggravating circumstances for serious sex crimes, crimes against the elderly, child sexual assault or abuse, domestic abuse in the presence of a child, homicide or injury by intoxicated use of a motor vehicle, and certain controlled substances crimes:

- *Serious Sex Crimes.* Courts are required to consider as an aggravating factor the fact that, at the time that the person committed the serious sex crime, the crime was committed under all of the following circumstances:

1. The person had a sexually transmitted disease, acquired immunodeficiency syndrome or had tested positive for the presence of human immunodeficiency virus (HIV).

2. The person knew that he or she had a sexually transmitted disease, acquired immunodeficiency syndrome or that he or she had tested positive for the presence of HIV.

3. The victim of the serious sex crime was significantly exposed to HIV or to a sexually transmitted disease by the acts constituting the serious sex crime.

- *Violent Felonies Committed Against an Elderly Person (62 years of age or older).* Courts are required to consider as an aggravating factor the fact that the victim of the violent felony was an elderly person, even if the offender mistakenly

believed that the victim had not attained the age of 62 years.

- *Child Sexual Assault or Child Abuse.* Courts are required to consider as an aggravating factor if the person was responsible for the welfare of the child who was the victim of the violation, including the child's parent, stepparent, guardian, foster parent; an employee of a public or private residential home, institution, or agency; any other person legally responsible for the child's welfare in a residential setting; or a person employed by one who is legally responsible for the child's welfare to exercise temporary control or care for the child.

- *Domestic Abuse in Presence of Child.* Courts are required to consider as an aggravating factor if the person committed an act of domestic abuse observable by, audible to, or in the presence of a child and the person knew or had reason to know the act was observable by, audible to, or in the presence of a child.

- *Homicide or Injury by Intoxicated Use of a Vehicle.* Courts are required to consider as an aggravating factor the fact that, at the time of the violation, there was a minor passenger under 16 years of age or an unborn child in the person's motor vehicle.

- *Controlled Substances - Distribution or Delivery to Prisoners.* Courts are required to consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance (including methamphetamine) or controlled substance analog to a prisoner within the precincts of any prison, jail, or house of correction.

- *Controlled Substances - Distribution or Delivery on Public Transit Vehicles.* Courts are required to consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or

distribute a Schedule I or II controlled substance (including methamphetamine) or Schedule I or II controlled substance analog and that the person knowingly used a public transit vehicle during the violation.

Under the statutes, the aggravating factors are not elements of a crime. A prosecutor is not required to charge any aggravating factor or otherwise allege the existence of an aggravating factor in any pleading for a court to consider the aggravating factor when making a sentencing decision.

In making a sentencing decision, a court is required to state the reasons for its sentencing decision in open court and on the record. However, if a court determines that it is not in the interest of the defendant for it to state the reasons for its sentencing decision in the defendant's presence, the court must state the reasons for its sentencing decision in writing and include the written statement in the record.

Application Order of Penalty Enhancers. The maximum term of confinement in prison may be increased by penalty enhancers (in which case the total length of the bifurcated sentence that may be imposed is increased by the same amount). For offenses committed on or after February 1, 2003, if more than one of the following penalty enhancement statutes apply to a crime, a court is required to apply them in the order listed in calculating the maximum term of imprisonment for the crime:

1. Certain domestic abuse, violence in a school zone, certain crimes against children committed by a child care provider, crimes committed against certain people or property, escape (if the person who had custody of the escapee is injured), certain hemp crimes, distribution or delivery of a controlled substance to a person under 18 years of age, and intent to deliver or distribute a controlled substance in or near certain places.

2. Use of a dangerous weapon.

3. Habitual criminality or second or subsequent controlled substance offenses.

Under 2001 Act 109, a 21-member Sentencing Commission was created under the Department of Administration. The Commission was required to study sentencing practices and prepare proposed sentencing guidelines for judges to use when imposing bifurcated sentences, publish and distribute an annual report to all circuit judges hearing criminal cases, and study whether race is a basis for imposing sentences in criminal cases (and submit a report and recommendations on the issue to the Governor, each house of the Legislature, and to the Supreme Court), among other responsibilities. A complete list of Sentencing Commission members and statutory duties can be found in the 2007 Legislative Fiscal Bureau Informational Paper 56 entitled, "Felony Sentencing and Probation."

As specified in Act 109, a sunset date for the Commission was set for December 31, 2007. Under 2007 Act 20 (the 2007-09 biennial budget act), the Sentencing Commission was eliminated. The requirement that judges consider the Commission's guidelines in sentencing determinations was, however, retained until it was repealed in 2009 Act 28. While the Sentencing Commission and its guidelines no longer exist, the provisions related to aggravating and mitigating factors still remain under current law.

Modification of Bifurcated Sentence. Under the modified bifurcated sentence structure, beginning February 1, 2003, there were two means by which a bifurcated sentence may have been modified. [It should be noted that 2009 Act 28 included statutory language changes to this provision, which are discussed in a later section of this paper.] Under the first method, an inmate, serving a sentence for a crime other than a Class B felony, violent felony (and certain violent misdemeanors), or certain crimes against a child [specific ineligible violent crimes and crimes against children are listed later under the "Challenge Incarceration Program" section of this

paper], may seek modification of the sentence if he or she meets one of the following criteria:

1. The inmate is 65 years of age or older and has served at least five years of the term of confinement for the prison portion of the bifurcated sentence;
2. The inmate is 60 years of age or older and has served at least 10 years of the term of confinement for the prison portion of the bifurcated sentence; or
3. The inmate has an extraordinary health condition. [Prior to 2009 Act 28, the requirement was that the inmate have a terminal condition.] An "extraordinary health condition" is defined as a condition afflicting a person, such as advanced age, infirmity, or disability of the person, or a need for medical treatment or services not available within a correctional institution.

An inmate who meets one of the above criteria may petition the program review committee of the correctional institution requesting modification of a bifurcated sentence. The program review committee may deny the petition or may refer it to the sentencing court if the committee determines that the public interest would be served by modification of the sentence. If the petition is referred, the sentencing court is required to conduct a hearing, where the inmate has the burden of proving by the greater weight of the credible evidence that modification would serve the public interest. If the inmate meets the burden of proof, the court is required to modify the inmate's sentence by releasing the inmate to extended supervision within 30 days after the date the court issues its order. The term of extended supervision is lengthened so that the total length of the bifurcated sentence originally imposed does not change. The state may appeal the court's decision to grant an inmate's petition to the appellate court. If the inmate's petition is denied, the inmate may appeal the decision. The appellate court may reverse the decision only if it determines that the sentencing court erroneously

exercised its discretion in granting or denying the petition.

Any petition that is denied by the program review committee or court may not be refiled within one year. Inmates eligible to seek modification have the right to be represented by counsel, including representation by the State Public Defender. In 2021-22, three inmates received sentence modifications for extraordinary health conditions.

The second manner in which a bifurcated sentence may be modified provides that an inmate, serving a sentence for a crime other than a Class B felony, may petition the sentencing court to adjust the sentence if: (a) the inmate has served at least 85% of the term of confinement for a Class C, D, or E felony; or (b) the inmate has served at least 75% of the term of confinement for a Class F, G, H, or I felony. Note that Class A felonies are also implicitly excluded from these release provisions. An inmate may submit only one petition for each imposed sentence. Any one of the following is ground for a petition:

1. The inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since he or she was sentenced;
2. A change in law or procedure, effective after the inmate was sentenced, related to sentencing or revocation that would have resulted in a shorter term of confinement, if the change had been applicable when the inmate was sentenced;
3. The inmate is subject to a sentence of confinement in another state or the inmate is in the United States illegally and may be deported; or
4. The sentence adjustment is otherwise in the interests of justice.

A court may deny any petition it receives, or hold the petition for further consideration. If the court holds the petition for further consideration,

the court must notify the district attorney of the inmate's petition. If the district attorney objects to adjustment of the sentence within 45 days of receiving the court's notification, the court must deny the petition. If the sentence is for certain sex offenses (second- or third-degree sexual assault, second-degree sexual assault involving a person under 16 years of age, soliciting a child for prostitution, or sexual assault of a child placed in substitute care) and the district attorney does not object to the petition within 10 days of receiving notice, the district attorney is required to notify the victim of the offense of the inmate's petition. If the victim objects to the petition within 45 days of receiving notice, the court must deny the petition.

If the sentencing court does not receive an objection to the sentence adjustment, and the court determines that adjustment is in the public interest, the court may modify the sentence. If the sentence is modified, the court must reduce the term of confinement by the amount of time remaining for confinement, less up to 30 days, and increase the term of extended supervision by the corresponding amount. If the court adjusts a sentence based on a change in law or procedure, and the total adjusted sentence length is greater than the maximum total sentence length that the inmate could have received under the change in law or procedure, the court may reduce the length of extended supervision so that the total adjusted sentence length does not exceed the maximum sentence length provided under the new law or procedure. If the adjusted term of extended supervision is greater than the maximum term of extended supervision the inmate could have received under the change in law or procedure, the court may reduce the term of extended supervision so that the term does not exceed the maximum term.

While Corrections tracks releases to extended supervision, the Department does not have data that specifically identifies offenders released under this sentence modification option.

In addition, an inmate sentenced under

indeterminate sentencing or Truth-In-Sentencing may petition for a sentence modification based on the existence of a new factor (a fact or set of facts highly relevant to the imposition of a sentence, but not known to the trial judge at sentencing, whether because it was not then in existence, or because, even though it was in existence, it was unknowingly overlooked by all of the parties). An inmate may also petition for sentence modification based on an abuse of discretion by the court.

Modification of Extended Supervision. Beginning February 1, 2003, an inmate or the Department of Corrections may petition the sentencing court to modify any conditions of extended supervision set by the court. The court may conduct a hearing to consider the petition and grant the petition in full or in part if it determines that the modification would meet the needs of Corrections and the public, and would be consistent with the objective(s) of the person's sentence. The offender or Corrections can appeal any such order, and the appellate court can reverse the order only if it determines that the sentencing court erroneously exercised its discretion in granting or denying the petition.

An inmate may not petition the court to modify the conditions of extended supervision earlier than one year before the inmate's scheduled date of release to extended supervision or more than once before the inmate's release. An inmate may not petition the court to modify the conditions of extended supervision within one year after his or her release to extended supervision. If an offender files a petition for modification after his or her release to extended supervision, the offender may not file another petition until one year after the date of filing the former petition.

Sanctions for Violation of Extended Supervision Conditions. Beginning February 1, 2003, if Corrections alleges that a condition or rule of extended supervision has been violated, Corrections may take physical custody of the person for investigation of the alleged violation. If the person signs

a statement admitting a violation of a condition of extended supervision, the Department may, as a sanction for the violation, confine the person for up to 90 days in a regional detention facility or, with the approval of the sheriff, in a county jail. If a county jail was used, the Department is required to reimburse the county for its actual costs of confining the person.

Court Determination of Length of Revocation. Under prior law, revocation of parole or extended supervision and the length of time that an offender is returned to prison was decided by Corrections if the offender waived a hearing, or by an administrative law judge (ALJ) if a hearing is held. Under Truth-in-Sentencing, while Corrections or the ALJ continued to make the revocation decision for a violation of extended supervision, the sentencing court determined the length of time the offender would be returned to prison. This provision was again modified under 2009 Act 28, discussed below.

2009 Act 28 Sentencing Modifications and 2011 Act 38 Repeal of Sentencing Modifications

The 2009-11 biennial budget act, 2009 Act 28, modified sentencing provisions related to confinement time, extended supervision, and probation. The sentencing modifications included: (a) positive adjustment time; (b) risk reduction sentence; (c) certain early releases; (d) release to extended supervision for older inmates and inmates with extraordinary health conditions; (e) extended supervision discharge; (f) revocation of extended supervision; (g) probation discharge; and (h) earned release and challenge incarceration program expansion. In addition, Act 28 renamed the Parole Commission to the Earned Release Review Commission and expanded its duties. However, the majority of the modifications, which became effective on October 1, 2009, were repealed in 2011 Act 38, effective as of August 3, 2011. The repealed provisions are

summarized in Appendix III and include: (a) positive adjustment time; (b) risk reduction sentence; (c) certain early releases; (d) extended supervision discharge; (e) probation discharge; and (f) earned release and challenge incarceration program expansion. An inmate who earned positive adjustment time or was given a risk reduction sentence between October 1, 2009, and August 3, 2011, is exempt from the repealing legislation and remains eligible for sentence modification. A list of offenses ineligible for the repealed sentencing modifications can be found in the 2011 Legislative Fiscal Bureau Informational Paper 56 entitled, "Felony Sentencing and Probation," Appendix V.

The sentencing modifications that remain under current law include: (a) revocation of extended supervision; (b) release to extended supervision for inmates with extraordinary health conditions; and (c) certain probation provisions. Probation is discussed later in this paper.

Revocation of Extended Supervision. Prior to Act 28, if a person released to extended supervision violated a condition of extended supervision, the review authority (Division of Hearing and Appeals in the Department of Administration or Corrections) could revoke the person's extended supervision. If revoked, the person would be returned to the sentencing court, where the court would order the person to be returned to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

Under Act 28, if a person's extended supervision is revoked as a result of a violation of his or her supervision, the review authority, rather than the sentencing court, may order the person to return to prison for any specified period of time that does not exceed the time remaining on the sentence.

Release to Extended Supervision for Extraordinary Health Conditions. Discussed under the Truth-in-Sentencing II section above, beginning February 1, 2003, older inmates or inmates with terminal conditions serving a bifurcated sentence,

other than a Class B felony, could petition the sentencing court to adjust his or her sentence under certain circumstances. As modified by 2009 Act 28 and 2011 Act 38, current law provides inmates with extraordinary health conditions the option to petition the sentencing court to adjust his or her sentence (rather than inmates with terminal conditions).

Under 2011 Act 38, petitions for sentence adjustment based on an extraordinary health condition go to the Department of Corrections' Program Review Committee (rather than the Earned Release Review Commission, under 2009 Act 28).

Court-Sentenced Correctional Programs

Challenge Incarceration Program ("Boot Camp")

The Department of Corrections operates a challenge incarceration program at the Robert E. Ellsworth Correctional Center for females and at the St. Croix Correctional Center for males. The program provides inmates with manual labor, personal development, counseling, substance abuse treatment and education, and military drill and ceremony. Further, the program provides strenuous exercise for participants who have not attained the age of 30 as of the program start date, and age-appropriate strenuous physical exercise for all other participants. Statutory provisions require that the program be designed to include not less than 50 participants at a time and that a participant may complete the program in not more than 180 days.

The program originally was limited to providing substance abuse treatment and counseling. However, under 2009 Act 28, the program was expanded to provide, based on each participant's assessed needs: (a) substance abuse treatment and education, including intensive intervention when

indicated; (b) personal development counseling; (c) education; (d) employment readiness training, and (e) other treatment options that are directly related to the participant's criminal behavior. Under 2011 Act 38, the Act 28 modifications were eliminated, and the program reverted back to providing substance abuse treatment, education, and counseling.

Under current law, for inmates serving a bifurcated sentence, the sentencing court must decide at sentencing whether or not an inmate is eligible for the program. An eligible inmate may be placed in the challenge incarceration program if all the following criteria are met:

- a. The inmate volunteers for the program;
- b. The inmate has not attained the age of 40 as of the program start date;
- c. The Department determines, during assessment and evaluation, that the inmate has a substance abuse problem;
- d. The Department determines that the inmate has no psychological, physical or medical limitations that would preclude participation in the program; and
- e. The inmate is not incarcerated for a crime against life and bodily security (crimes under Chapter 940 of the statutes), or for certain other violent crimes or crimes against a child.

Violent crimes for which inmates are ineligible include: (a) first- or second-degree intentional homicide; (b) first- or second-degree reckless homicide; (c) felony murder; (d) homicide by negligent operation of a vehicle, intoxicated use of a vehicle or firearm, or by negligent handling of a dangerous weapon, explosives, or fire; (e) certain battery violations; (f) abuse of/by certain individuals (including of a child); (g) mayhem; (h) sexual assault (including sexual assault of a child); (i) reckless injury; (j) strangulation and suffocation;

(k) false imprisonment; (l) human trafficking (including of a child); (m) taking hostages; (n) kidnapping; (o) certain intimidation of a witness or victim; (p) endangering safety by use of a dangerous weapon; (q) certain machine guns and other weapons violations; (r) possession of a short-barreled shotgun or rifle; (s) straw purchasing firearms; (t) possession of a weaponized drone; (u) recklessly endangering safety; (v) certain tampering with household products; (w) certain arson violations; (x) Molotov cocktail violations; (y) certain burglary violations; (z) operating a vehicle without the owner's consent (use or threat of force or a dangerous weapon); (aa) certain robbery violations; (ab) assault by prisoners; (ac) engaging in repeated acts of sexual assault of the same child; (ad) causing mental harm to a child; (ae) sexual exploitation of a child; (af) incest with a child; (ag) child enticement; (ah) soliciting a child for prostitution; (ai) sexual assault of a child placed in substitute care; (aj) abduction of another's child; and (ak) certain violent misdemeanors.

Crimes under Chapter 940 (other than those already included in the violent crimes list) for which inmates are also ineligible for the program include: (a) abortion and partial-birth abortion; (b) homicide resulting from negligent control of a vicious animal; (c) mutilating or hiding a corpse; (d) assisting suicide; (e) all other batteries, not included in the violent felony crimes list; (f) sexual exploitation by therapist; (g) failure to render aid by a law enforcement officer; (h) stalking; (i) duty to aid victim or report crime; and (j) injury by intoxicated use of a vehicle, or by negligent handling of a dangerous weapon, explosives, or fire.

Further, crimes against a child (Chapter 948) (other than those already included in the violent crimes list) for which inmates are ineligible include: (a) sexual assault of a child - failure to act; (b) causing a child to view or listen to sexual activity; (c) use of a computer to facilitate a child sex crime; and (d) sexual assault of a student by a school instructional staff person or a person who works or volunteers with children.

If the Department determines that an inmate serving a bifurcated sentence has successfully completed the boot camp program, the Department must inform the sentencing court. The sentencing court then will: (a) reduce the prison portion of the bifurcated sentence so that the inmate will be released to extended supervision within 30 days of the date on which the court received notice; and (b) lengthen the term of extended supervision so that the total length of the bifurcated sentence does not change. Upon receiving a court order modifying an inmate's bifurcated sentence, the Department must release the inmate within six working days. Inmates in the program serving indeterminate sentences must be paroled upon successful completion and must be placed in an intensive supervision program for drug abusers. More information on the intensive sanctions program can be found in the 2019 Legislative Fiscal Bureau Informational Paper 53 entitled, "Felony Sentencing and Probation."

As of July 1, 2022, 5,248 inmates were eligible for the Challenge Incarceration Program and 34 were actively participating in the program.

Wisconsin Substance Abuse Program ("Earned Release Program")

An earned release program was created in 2003 Act 33 for eligible inmates who successfully complete the substance abuse treatment program at the Drug Abuse Correctional Center (DACC). In 2005 Act 25, the Robert E. Ellsworth Correctional Center was designated as a facility for the earned release program for female inmates. In 2007 Act 20, statutory language was modified to allow the Department to operate the program at any of its correctional facilities.

Under current law, all inmates are eligible for the earned release program, except inmates who are incarcerated for crimes against life and bodily security, or for certain crimes against a child (the same crimes for which inmates are ineligible for the challenge incarceration program). For inmates

-serving a bifurcated sentence, the sentencing court must decide at sentencing whether or not an inmate is eligible for the program. Inmates serving a bifurcated sentence prior to the creation of the program must petition the sentencing court to determine eligibility. The sentencing court must rule on the inmate's petition no later than 90 days after the petition is filed. In addition, eligible inmates serving an indeterminate sentence may be placed in the earned release program by the Department.

If the Department determines that an inmate serving a bifurcated sentence has successfully completed the substance abuse program, the Department must notify the sentencing court. The sentencing court must: (a) reduce the prison portion of the bifurcated sentence so that the inmate will be released to extended supervision within 30 days of the date on which the court received notice; and (b) lengthen the term of extended supervision so that the total length of the bifurcated sentence does not change. Inmates in the program serving indeterminate sentences must be paroled upon successful completion and must be placed in an intensive supervision program appropriate to the parolee's treatment needs.

As of July 1, 2022, 6,830 inmates were eligible for the Wisconsin Substance Abuse Program and 660 were actively participating in the program.

Serious Repeat Offenders and Mandatory Minimum Sentences

Wisconsin has a "three strikes" provision for serious repeat offenders and a "two strikes" provision for certain serious child sex offenders. The "three strikes" provision, created in 1993 Act 289, requires a court to sentence an individual to life imprisonment without parole if the person is convicted on three separate occasions for any serious felony. The "two strikes" provision, created in 1997 Act 326, requires the court to sentence an

individual to life imprisonment without parole if the person is convicted on two separate occasions of: sexual assault of a child, engaging in repeated acts of sexual assault with the same child, sexual exploitation of a child, trafficking of a child, causing a child to view or listen to sexual activity, incest with a child, child enticement, soliciting a child for prostitution, patronizing a child, sexual assault of a child placed in substitute care, sexual assault of a student by a school instructional staff person or person who works or volunteers with children, abduction of a minor, kidnapping of a minor, or a comparable federal law, law of another state, or prior Wisconsin law.

For both the "two strikes" and "three strikes" provisions, prosecutors must allege and prove beyond a reasonable doubt that the offender had prior offenses before a court is required to sentence a person to life without the possibility of parole or extended supervision. Appendix IV identifies the felonies that are included under the "two strikes" and "three strikes" laws.

In addition to the "two strikes" and "three strikes" provisions, mandatory minimum sentences have also been established for several felony offenses, including: (a) certain child sex offenses; (b) repeat serious sex crimes; (c) repeat serious violent crimes; (d) certain firearms offenses; and (e) certain operating while intoxicated offenses. Mandatory minimum sentences require individuals to serve some portion of their sentence with a term of confinement in prison (with some exceptions). Appendix V identifies each felony offense for which a mandatory minimum sentence is required and the associated term of confinement in prison.

Probation

If a person is convicted of a crime, a court may grant probation, either by withholding a sentence or by imposing a sentence and staying its execution.

The person is then placed on probation under the supervision of the Department of Corrections. The court may impose any conditions on the probationer that appear to be reasonable and appropriate. Corrections may also impose rules and regulations on the offender and must inform a probationer if he or she is disqualified from voting. The period of probation may be made consecutive to a sentence on a different charge, whether imposed at the same time or previously. An offender convicted of any of the following offenses is explicitly prohibited from being placed on probation: (a) an offense punishable by life imprisonment; (b) a repeat serious sexual offense; (c) a repeat serious violent crime; or (d) a repeat firearms crime. In addition, an offense requiring a mandatory minimum period of confinement in prison, by its nature, implies that probation is prohibited. However, in certain circumstances, a court may place a person on probation for an offense carrying a mandatory minimum sentence if the court finds that the best interest of the community will be served, the public will not be harmed, and if the court places its reasons on the record. [Offenses requiring a mandatory minimum sentence and to which this provision applies are identified in Appendix V.]

When placing a person on probation, a court is required to order a probationer to pay restitution, unless the court finds there is substantial reason not to order restitution as a condition of probation. If a court does not require restitution to be paid to a victim, the court is required to state its reason(s) on the record. If a court does require restitution, it is required to notify the Department of Justice of its decision if the victim is eligible for compensation under the state crime victim compensation program.

If a person is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, the court may place the person on probation if the court requires, as a condition of probation, that the person be confined in a county jail, Huber facility (work release), work camp, or tribal jail for at least that mandatory or presumptive minimum period. The person is

eligible to earn good time credit of up to 25% of confinement.

If a court places the person on probation, the court may require the probationer to reimburse the county or the state for any costs of legal representation for the defense of the case. In order to receive reimbursement, the county or state public defender must provide a statement of its costs of legal representation to the defendant and the court within the time period set by the court.

Under the statutes, the lengths of terms of probation are as follows:

1. For a misdemeanor involving firearm possession, domestic abuse, fourth-degree sexual assault, crimes against children, certain offenses involving intoxicated use of specified vehicles, or refusing a lawful sample request, not less than six months nor more than two years.
2. For one Class A misdemeanor not covered under 1. above, not less than six months nor more than one year.
3. For other misdemeanors not covered under 1. or 2. above, not more than one year.
4. For not less than two nor more than four misdemeanors at the same time, the maximum original term of probation may be increased by one year.
5. For five or more misdemeanors at the same time, the maximum original term of probation may be increased by two years.
6. For a misdemeanor involving a violation of a temporary restraining order or injunction, not less than six months nor more than the period of the injunction issued.
7. For any felony, not less than one year nor more than the statutory maximum term of confinement in prison for the crime or three years,

whichever is greater.

8. If the offender is convicted of two or more crimes, including at least one felony, at the same time, the maximum original term of probation may be increased by one year for each felony conviction.

The court may require, as a condition of probation, that the probationer be confined during the term of probation, but not to exceed one year. The court may grant the privilege of leaving the county jail, Huber facility, work camp, or tribal jail during the hours or periods of employment or other approved activity while confined. The court may specify the necessary and reasonable hours and delegate that authority to the sheriff.

In addition, with the consent of the Department of Corrections and when recommended in a presentence investigation, a court may order a felony offender confined to a facility in the City of Milwaukee to allow the offender to complete an alcohol and other drug abuse treatment program.

A court may require, as a condition of probation, that the probationer perform community service work for a public agency or a nonprofit charitable organization. The number of hours of community service may not exceed what would be reasonable considering the seriousness of the offense. Community service work may only be ordered if agreed to by the probationer and the organization or agency. A court is required to ensure that a probationer is provided a written statement of the terms of the community service order and that the community service is monitored. If the court requires community service and confinement time, a probationer reduces the period of confinement by one day for each three, eight-hour days of work performed.

At least 90 days before the expiration of an individual's probation, the Department must notify the sentencing court and district attorney if a probationer owes any fees to the Department or any crime victim and witness assistance surcharge

amounts. Upon receiving notice, the court must schedule a probation review hearing to be held before the expiration date of probation, unless the probationer either pays the unpaid fee(s) or surcharge before the hearing or voluntarily waives the hearing. A waiver of a probation review hearing must include an acknowledgement by the probationer that waiver may result in an extension of the probation period, a modification of the terms and conditions of probation, or revocation of probation.

At a probation review hearing, the Department has the burden of proving that the probationer owes an unpaid fee(s) to the Department or crime victim and witness assistance surcharge. If the Department proves by a preponderance of evidence that the fee(s) or surcharge is owed, the court may order the extension of probation or modify the terms and conditions of probation. If the court does not extend probation, the court must issue a judgment for the unpaid fee(s) or surcharge and direct the circuit court clerk to file and enter the judgment. If the court issues a judgment for the unpaid fee(s) or surcharge, the court must send a written notification to the Department that a civil judgment has been issued.

If a probationer owes any ordered restitution, the Department and the court must follow the same notification and procedural requirements as outlined above, except that the Department must additionally notify any person to whom unpaid restitution is owed at least 90 days before the expiration of an individual's probation.

Prior to the expiration of any probation period, a court, for cause and by order, may extend probation for a specified period or modify the terms and conditions. Any of the following situations constitute a cause for the extension of probation: (a) the probationer has not made a good faith effort to discharge court-ordered payment obligations or to pay the required probation, parole, and extended supervision fees owed to the Department of Corrections; (b) the probationer is not presently able to make required restitution payments and the probationer and

the person to whom restitution is owed consent to the performance of community service work in satisfaction of restitution ordered for that person, for which an extended period of probation is required; or (c) the court finds that extension would serve the purposes for which probation was imposed and the probationer agrees to the extension. If a probationer does not agree to an extension or modification of probation, revocation proceedings may begin that could result in the original stayed sentence being imposed or result in the imposition of a sentence if one had originally been withheld. If probation is not extended and restitution or fees are still owed, a civil judgment may be entered against a probationer.

The Department of Corrections may initiate the probation revocation process if a probationer violates a condition of probation. Under this process, the Department of Administration's Division of Hearings and Appeals or Corrections, if a probationer waives a hearing, conducts an administrative hearing and enters an order to either revoke or not revoke an offender's probation. If an offender is revoked, the person is either: (a) ordered to be brought before the court for sentencing, if sentence had been withheld; or (b) ordered to prison or jail, if the probationer had already been sentenced and the original sentence was stayed.

The court may modify a person's period of probation and discharge the person if all the following apply: (a) the Department of Corrections petitions the court to discharge the person; (b) the probationer has completed 50% of his or her period of probation; (c) the probationer has satisfied all conditions of probation that were set by the court; (d) the probationer has satisfied all rules and conditions of probation that were set by the Department; (e) the probationer has fulfilled all financial obligations to his or her victims, the court, and the Department, including the payment of any fine, forfeiture, fee or surcharge, or order of restitution; (f) the probationer is not required to register under the sex offender registry; and (g) the probationer is on probation for a violation other than a violent felony (and

certain violent misdemeanors) or certain crimes against a child. [Specific ineligible violent crimes and crimes against children are listed above under the "Challenge Incarceration Program" section of this paper].

If the court receives a petition from the Department of Corrections to modify a person's probation, the clerk of court must send a notice of hearing to the victim of the crime, if the victim has requested such notification.

A probationer is discharged from probation when the court-ordered period of probation has expired and the probationer has satisfied the conditions of his or her probation. Upon completion of probation, Corrections is required to do all of the following:

1. If the probationer was placed on probation for a felony, issue the probationer one of the following: (a) a certificate of discharge from probation for the felony for which he or she was placed on probation if, at the time of discharge, the probationer is on probation or parole for another felony; or (b) a certificate of final discharge if, at the time of discharge, the probationer is not on probation or parole for another felony. A certificate of final discharge lists the civil rights that have and have not been restored to the probationer.
2. If the probationer was placed on probation for a misdemeanor, notify the probationer that his or her period of probation has expired.
3. Notify the court that placed the probationer on probation that the period of probation has expired.

Lifetime Supervision for Serious Sex Offenders

A court may, in addition to sentencing a person, placing a person on probation, or committing a

person to a mental health facility, place a person on lifetime supervision by Corrections if a person is convicted of a serious sex offense or found not guilty of a serious sex offense by reason of mental disease or defect. A court must determine that lifetime supervision is necessary to protect the public and must notify the person that he or she is being placed on lifetime supervision. A person placed on lifetime supervision is subject to the control of Corrections under conditions set by the court and regulations of the Department that are necessary to protect the public and promote the rehabilitation of the person placed on lifetime supervision.

"Serious sex offenses" for which a person may be placed on lifetime supervision include: (a) a violation of, or the solicitation, conspiracy or attempt to commit sexual exploitation by a therapist, first-, second- or third-degree sexual assault, first- or second-degree sexual assault of a child, engaging in repeated acts of sexual assault with the same child, sexual exploitation of a child, trafficking of a child, causing a child to view or listen to sexual activity, incest with a child, child enticement, soliciting a child for prostitution, exposing a child to harmful materials or harmful descriptions or narratives, possession of child pornography, using a computer to facilitate a child sex crime, sexual assault of a child placed in substitute care, or child sex offender working with children; or (b) a violation of, or the solicitation, conspiracy or attempt to commit a violation under the statutes related to life and bodily security, crimes against reputation, privacy and civil liberties, property crimes, crimes against sexual morality or crimes against children, if a court determines that one of the purposes for the conduct constituting the violation was for a person's sexual arousal or gratification. If a prosecutor seeks lifetime supervision for a person who is charged with committing a serious sex offense under (b), a court is required to find a special verdict as to whether the conduct constituting the offense was for the defendant's sexual arousal or gratification.

Lifetime supervision begins: (a) if the person is

placed on probation for the serious sex offense, upon his or her discharge from probation; (b) if the person is sentenced to prison for the serious sex offense, upon his or her discharge from parole or extended supervision; (c) if the person is sentenced to prison for the serious sex offense and is being released from prison because he or she has reached the expiration date of his or her sentence, upon his or her release from prison; (d) if the person has been committed to a mental health facility for the serious sex offense, upon the termination of his or her commitment or his or her discharge from the commitment; or (e) if none of the previous situations apply, upon the person being sentenced for a serious sex offense.

A person placed on lifetime supervision is under the control of Corrections. The Department may temporarily take a person on lifetime supervision into custody if it has reasonable grounds to believe that the person has violated a condition or regulation of lifetime supervision. Custody may, however, last only as long as is reasonably necessary to investigate whether the person violated a condition or regulation of lifetime supervision and, if warranted, refer the person to the appropriate prosecuting agency for commencement of prosecution. The Department may charge a fee to the person placed on lifetime supervision. The fee varies based on ability to pay, and the Department may choose not to charge a fee at all. No person placed on lifetime supervision may knowingly violate a condition or regulation of lifetime supervision established by the court or by Corrections. If any violation occurs, it could be considered a Class A misdemeanor, unless the violation is a felony, in which case the person could be charged with a Class I felony.

A person placed on lifetime supervision may file a petition with the court requesting that lifetime supervision be terminated if: (a) he or she has not been convicted of a crime that was committed during the period of lifetime supervision; and (b) he or she has been on lifetime supervision for at least 15 years. The petition must be filed with the court that ordered the lifetime supervision. If a person files a

petition requesting termination at any time earlier than 15 years after the date on which the period of lifetime supervision began, the court is required to deny the petition without a hearing.

A request for supervision termination follows the process outlined below.

1. Upon receiving a petition requesting termination of lifetime supervision, the court is required to send a copy of the petition to the district attorney responsible for prosecuting the serious sex offense that was the basis for the order of lifetime supervision. Upon receiving a copy of a petition sent to him or her, the district attorney must conduct a criminal history record search to determine whether the person has been convicted of a criminal offense that was committed during the period of lifetime supervision. No later than 30 days after the date on which he or she receives the copy of the petition, the district attorney must report the results of the criminal history record search to the court and may also provide a written response to the petition.

2. After reviewing the report of the district attorney, the court is required to do whichever of the following is applicable:

a. If the report of the district attorney indicates that the person has been convicted of a criminal offense that was committed during the period of lifetime supervision, the court must deny the person's petition without a hearing.

b. If the report of the district attorney indicates that the person has not been convicted of a criminal offense that was committed during the period of lifetime supervision, the court is required to order the person to be examined by a physician or psychologist, notify Corrections that it may submit a report, and schedule a hearing on the petition.

3. A person entitled to a hearing must be examined by a person who is either a physician or a psychologist and who is approved by the court.

The physician or psychologist who conducts an examination is required to prepare a report of his or her examination that includes his or her opinion of whether the person petitioning for termination of lifetime supervision is a danger to public. The physician or psychologist must file the report of his or her examination with the court within 60 days after completing the examination, and the court is required to provide copies of the report to the person filing the petition and the district attorney. The contents of the report are confidential until the physician or psychologist testifies at a hearing. The person petitioning for termination of lifetime supervision must pay the cost of an examination.

4. After it receives notification from the court, Corrections may prepare and submit to the court a report concerning the person. If Corrections prepares and submits the report, the report must include information concerning the person's conduct while on lifetime supervision and an opinion as to whether lifetime supervision of the person is still necessary to protect the public. The contents of the report must be revealed to the attorney for the person who filed the petition and to the district attorney.

5. A hearing on a petition may not be conducted until the person filing the petition has been examined and a report of the examination has been filed. At the hearing, the court must take evidence it considers relevant to determining whether lifetime supervision should be continued because the person who filed the petition is a danger to the public. The person who filed the petition and the district attorney who received the petition may offer evidence relevant to the issue of the person's dangerousness and the continued need for lifetime supervision.

6. After a hearing, the court may grant a petition requesting termination of lifetime supervision if it determines that lifetime supervision is no longer necessary to protect the public.

7. If a petition requesting termination of

lifetime supervision is denied, the person may not file a subsequent petition requesting termination of lifetime supervision until at least three years have elapsed since the most recent petition was denied.

8. If the court grants a petition requesting termination of lifetime supervision and the person is registered with Corrections as a sex offender, the court may also order that the person is no longer required to comply with the sex offender registry reporting requirements. This provision does not, however, apply to any person who is required by the court to comply with the registration requirements for life. [The sex offender registration program is discussed in the Legislative Fiscal Bureau's Informational Paper entitled, "Adult Corrections Program."]

As of July 1, 2022, 186 offenders were serving a period of lifetime supervision, including 27 newly added in 2021-22 and one terminated in 2021-22 (due to death).

Original Jurisdiction of Adult Court for Juvenile Offenders

Adult criminal courts have exclusive original jurisdiction over juveniles under the following conditions:

1. If a juvenile is alleged to have attempted first-degree intentional homicide or committed second-degree intentional homicide or first-degree reckless homicide on or after the juvenile's 10th birthday;

2. If a juvenile has been adjudicated delinquent and is alleged to have committed battery or assault while placed in a juvenile correctional facility, a juvenile detention facility, or a secured residential care center for children and youth or against an aftercare agent or a community supervision, extended supervision and parole agent;

3. If a juvenile is alleged to have attempted or committed a violation of any state criminal law in addition to the violation alleged under 1. or 2. (in which case the juvenile is under the adult court's jurisdiction for all of the alleged violations charged in the same complaint ("joined")); or

4. If a juvenile is alleged to have violated any state criminal law and has either been convicted of a previous violation in adult court (following waiver to adult court or under the original jurisdiction of the adult court) or has criminal proceedings pending in adult court (commonly referred to as "once waived/always waived").

A juvenile under adult court jurisdiction is subject to criminal court procedures and criminal penalties for the crime that the juvenile is alleged to have committed except as follows:

1. If the juvenile is under 15 years of age, the juvenile may be held in secure custody only in a juvenile detention facility or in the juvenile portion of a county jail.

2. If the adult court transfers its original jurisdiction to the juvenile court (commonly referred to as "reversed waived"). The adult court may transfer its original jurisdiction to the juvenile court if, after finding probable cause that the juvenile has committed one of the offenses listed above, the juvenile proves by a preponderance of the evidence all of the following: (a) that, if convicted, the juvenile could not receive adequate treatment in the adult criminal justice system; (b) that transferring jurisdiction to the juvenile court would not depreciate the seriousness of the offense; and (c) that retaining jurisdiction is not necessary to deter the juvenile or other juveniles from committing such violations;

3. The adult court must impose a juvenile disposition, in lieu of a criminal penalty, if any of the following conditions apply:

a. The adult court finds that the juvenile committed a lesser offense than the offense charged or

a joined offense and the offense is **not**: (1) committed or attempted first-degree intentional homicide; (2) first-degree reckless homicide or second-degree intentional homicide; (3) battery or assault while placed in a juvenile correctional facility, a juvenile detention facility, or a secured residential care center for children and youth or against an aftercare agent or a probation, extended supervision and parole agent; or (4) an offense for which a juvenile could be waived into adult court (described in the next section);

b. If the juvenile was younger than 15 years of age at the time the offense was committed, the adult court finds that the juvenile committed a lesser offense that is an offense specified above and the court determines, based on certain criteria, that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a juvenile disposition under the juvenile justice code. The criteria used by the adult court in making the determination are identical to those used by the juvenile court in determining whether a juvenile should be waived to adult court (described in the next section); or

c. The adult court finds that the juvenile has not, on or after the juvenile's 15th birthday: (1) committed or attempted first-degree intentional homicide; or (2) committed first-degree reckless homicide or second-degree intentional homicide, and the court finds that, based on the waiver criteria, the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and the public to impose a juvenile disposition under the juvenile justice code.

More information on the jurisdiction over juvenile offenders can be found in the Legislative Fiscal Bureau's Informational Paper entitled, "Juvenile Justice and Youth Aids Program."

Waiver to Adult Court for Juveniles 14 or Older

A district attorney or a juvenile may petition to the juvenile court requesting to waive its jurisdiction to the adult court in any of the following situations:

1. If the juvenile is alleged to have committed felony murder, second-degree reckless homicide, first- or second-degree sexual assault, taking hostages, kidnapping, armed robbery, robbery of a financial institution, armed burglary, or the manufacture, distribution or delivery of a controlled substance on or after the juvenile's 14th birthday;

2. If the juvenile is alleged to have committed, on or after the juvenile's 14th birthday, a violation, at the request of or for the benefit of a criminal gang, that would constitute a felony if committed by an adult; or

3. If the juvenile is alleged to have violated any state criminal law on or after the juvenile's 15th birthday.

The judge may also file a petition for waiver of jurisdiction in any of these situations, if the judge disqualifies himself or herself from any future proceedings on the case. The petition must contain a brief statement of the facts supporting the waiver request.

The juvenile must be represented by counsel at the waiver hearing. The juvenile has the right to present testimony on his or her own behalf, including expert testimony, and has the right to cross-examine witnesses. The juvenile does not have the right to a jury at a waiver hearing.

Before determining whether or not to waive jurisdiction, the court must determine whether the

matter has prosecutorial merit. If the court determines the matter does not have prosecutorial merit, the court must deny the petition for waiver.

If a petition for waiver of jurisdiction is contested, the district attorney must present relevant testimony to the court. If uncontested, no testimony need be taken if the court determines that the decision not to contest the waiver of jurisdiction is knowingly, intelligently and voluntarily made. Regardless of whether or not the petition is contested, the court must base its decision whether to waive jurisdiction on the following criteria:

1. The personality of the juvenile, including whether the juvenile has a mental illness or developmental disability, the juvenile's physical and mental maturity, and the juvenile's pattern of living, prior treatment history, and apparent potential for responding to future treatment;

2. The prior record of the juvenile;

3. The type and seriousness of the offense, including whether it was against persons or property and the extent to which it was committed in a violent, aggressive, premeditated, or willful manner;

4. The adequacy and suitability of facilities, services, and procedures available for treatment of the juvenile in the juvenile justice system and the protection of the public; and

5. The desirability of trial and disposition of the entire offense in one court if the juvenile was allegedly associated in the offense with persons who will be charged with a crime in adult court.

The court may designate the Department of Children and Families, the Department of Corrections, a county department, or licensed child welfare agency to submit a report analyzing the above waiver criteria. The court may rely on facts stated in the report to make its findings.

After considering these criteria, the court must

state its findings with respect to the criteria on the record. If the court determines that it is established by clear and convincing evidence that it would be contrary to the best interests of the juvenile or of the public to hear the case, the court enters an order waiving jurisdiction and refers the matter to the district attorney for appropriate proceedings in adult court. After the order, the court of criminal jurisdiction has exclusive jurisdiction.

If the juvenile absconds and does not appear at the waiver hearing, the court may proceed with the hearing in the juvenile's absence. If the waiver is granted, the juvenile may contest the waiver when he or she is apprehended by showing the court good cause for failure to appear. If the court of criminal jurisdiction finds good cause for the juvenile's failure to appear, the court must transfer jurisdiction back to the juvenile court to hold a waiver hearing.

If the waiver is granted, the district attorney may charge the offense he or she deems is appropriate and a court or jury may convict the juvenile with regard to any charged offense. If the waived juvenile is being held in secure custody, he or she is transferred to an appropriate officer or adult facility and is eligible for bail.

Correctional Placement of Juveniles Convicted in Adult Court

If a juvenile is subject to a criminal penalty and has attained the age of 17 years, the Department may place him or her in a state prison, as long as the prison is not a maximum security facility. However, under the federal Prison Rape Elimination Act (PREA), any person under the age of 18 incarcerated or detained in a prison or jail must be housed separately from adult inmates, with either sight and sound separation or direct staff supervision. Currently, the Department houses individuals under 18 at a secured juvenile correctional facility.

APPENDIX I

Felony Sentencing Prior to December 31, 1999 ("Indeterminate Sentencing")

For felony offenses occurring before December 31, 1999, offenders are sentenced under an indeterminate sentencing structure. Under an indeterminate sentence, judges could impose a sentence for each charge resulting in a conviction. The sentence is for a fixed amount of time equal to or less than the statutory maximum. The sentence length imposed by a judge includes both time in prison and on parole. The maximum indeterminate sentences for Wisconsin's previous six classes of felonies are identified in the table below.

Under an indeterminate sentence, persons sentenced to prison, other than those sentenced to life, must serve a minimum of the greater of six months or 25% of the court-imposed sentence before becoming eligible for parole (commonly referred to as the "parole eligibility date"). Convictions for some offenses may require a longer minimum prison term before a person reaches the parole eligibility date. Inmates serving life sentences generally become eligible for parole after serving 13 years and four months. For crimes punishable by life imprisonment, a judge could, however, set any parole eligibility date that is later than the statutorily-defined date or impose a sentence of life without the possibility of parole. Further, judges could establish a parole eligibility date for individuals convicted of serious felony offenses (see Appendix IV under "Parole Eligibility") who have previously been convicted of a serious felony offense. The date established by the court could not be less than the parole eligibility date or more than two-thirds of a sentence. If the court did not establish a parole eligibility date, an individual is eligible for parole after serving 25% of his or her sentence.

The use of "good time credit" also affects the length of time an offender is imprisoned under an

indeterminate sentence. Under this concept, inmates receive credit against the time they are sentenced to serve based on the inmate's performance in the areas of prison duties, labor, and educational studies. Except as discussed below, for crimes committed after May 31, 1984, and prior to December 31, 1999, offenders sentenced to prison are subject to mandatory release upon serving two-thirds of the court-imposed sentence. This release date may be extended for infractions of prison regulations.

The decision to grant discretionary parole (release from prison at any time between the parole eligibility date and the mandatory release date) is made by the Department of Corrections' Parole Commission. The Commission consists of four members: the chairperson, appointed for a two-year term by the Governor, with the advice and consent of the Senate; and three other members in the classified service appointed by the chairperson. The Commission conducts interviews with parole-eligible inmates and decides whether to grant a discretionary release. Authority for final discretionary parole decisions rests with the Parole Commission chair. If discretionary parole is granted, the parolee is placed under the supervision of the Department of Corrections for a period not to exceed the court-imposed sentence, less time already served.

If discretionary parole is denied, the individual will be released and placed under parole supervision upon reaching the statutory mandatory release date for a period not to exceed the court-imposed sentence, less time already served. A person sentenced to life imprisonment is not subject to mandatory release provisions. Corrections may discharge a parolee from supervision on or after his or her mandatory release date or after two years of supervision. Individuals serving their entire

sentence in prison or completing their sentence in prison are released directly from prison without parole supervision. A person sentenced to life imprisonment is not subject to mandatory release provisions.

For individuals convicted of certain serious felony offenses (see Appendix IV under "Mandatory Release"), the Parole Commission may decide not to release an inmate on the mandatory release date, but instead establish a later release date (commonly

referred to as "presumptive mandatory release"). If the Commission does not deny an individual subject to the presumptive mandatory release provisions release at two-thirds of the court-imposed sentence, the individual is released on parole supervision. If release is denied, regular reviews of the inmate's case are required.

As of July 1, 2022, 1,776 individuals with indeterminate sentences were eligible for parole.

Maximum Total Sentence for Classified Felonies Under Indeterminate Sentencing

Class A	Life imprisonment.
Class B	Imprisonment not to exceed 40 years for offenses occurring after April 20, 1994, and imprisonment not to exceed 20 years for offenses that occurred prior to that date.
Class BC	Fine not to exceed \$10,000 or imprisonment not to exceed 20 years for offenses occurring after December 1, 1995.
Class C	Fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both.
Class D	Fine not to exceed \$10,000 or imprisonment not to exceed 5 years, or both.
Class E	Fine not to exceed \$10,000 or imprisonment not to exceed 2 years, or both.

APPENDIX II

Classified Felony Offenses, On or After February 1, 2003 [Statutory Citation]

(Sentence Lengths for Each Classification are Identified in Table 1 on Page 7)

Class A Felonies

1. First-degree intentional homicide [940.01(1)]
2. Intentionally performing a partial-birth abortion [940.16(2)]
3. Treason [946.01]
4. Absconding after being adjudicated delinquent for committing an act that would be a Class A felony [946.50(1)]
5. Sexual contact or intercourse with a person under 13 years old (causing great bodily harm) [948.02(1)(am)]
6. Engaging in repeated sexual contact or intercourse with a person under 13 years old (if at least three of the offenses caused great bodily harm) [948.025(1)(a)]
7. Engaging in repeated acts of physical abuse of the same child (if at least one offense caused death) [948.03(5)(a)1.]

Class B Felonies

1. Conspiracy to commit a crime for which the penalty is life imprisonment [939.31]
2. Attempt to commit a crime for which the penalty is life imprisonment [939.32(1)(a)]
3. First-degree reckless homicide [940.02(1) & (1m)]
4. Second-degree intentional homicide [940.05]
5. First-degree sexual assault [940.225(1)]
6. Taking hostages, unless each hostage is released without bodily harm before the hostage taker's arrest [940.305(1)]
7. Kidnapping with intent to cause another to transfer property to obtain the release of the victim, where the victim is not released without permanent physical injury prior to the time the first witness is sworn at trial [940.31(2)(a)]
8. Absconding after being adjudicated delinquent for a Class B felony [946.50(2)]
9. Sexual intercourse with a person under 12 years old [948.02(1)(b)]
10. Sexual intercourse with a person under 16 years old by use or threat of force or violence [948.02(1)(c)]
11. Sexual contact with a person under 16 years old by use or threat of force or violence (if the actor is at least 18 years old when the sexual contact occurs) [948.02(1)(d)]
12. Sexual contact or intercourse with a person under 13 years old [948.02(1)(e)]
13. Engaging in at least three violations of the following: (a) sexual contact or intercourse with a person under 13 years old (causing great bodily harm); (b) sexual intercourse with a person under 12 years old; (c) sexual intercourse with a person under 16 years old by use or threat of force or violence; or (d) sexual contact with a person under 16 years old by use or threat of force or violence, if the actor is at least 18 years old when the sexual contact occurs, and if fewer than three of the violations were of (a) [948.025(1)(b),(c), or (d)]
14. Engaging in repeated acts of physical abuse of the same child (if at least two violations caused great bodily harm) [948.03(5)(a)2.]
15. Chronic neglect of a child (causing death) [948.215(2)(a)]

Class C Felonies

1. Attempt to use a computer to facilitate a child sex crime with an individual who the actor believes or has reason to believe is under 16 years old [939.32(1)(de)]
2. First-degree reckless homicide, where drugs are provided or administered ("Len Bias" Law) [940.02(2)]
3. Homicide by intoxicated use of a vehicle, one or more previous violations [940.09(1c)(b)]
4. Intentionally causing great bodily harm to an elder person [940.198(2)(a)]
5. Mayhem [940.21]
6. Second-degree sexual assault [940.225(2)]
7. Abuse of vulnerable adults under circumstances that cause death by intentional or reckless maltreatment, except for employees of certain institutions, facilities and programs [940.285(2)(b)1g.]

Class C Felonies (continued)

8. Abuse or neglect by employees of certain institutions, facilities or programs of persons at risk under circumstances that cause death by intentional or reckless abuse or neglect [940.295(3)(b)1g.]
9. Taking hostages when, before the time of the hostage taker's arrest, each person who is held as a hostage is released without bodily harm [940.305(2)]
10. Kidnapping by force or threat of imminent force, by deceit, or with intent to cause another to transfer property in order to obtain the release of the victim (if the victim is released without permanent physical injury) [940.31(1) & (2)(b)]
11. Tampering with household products with intent to kill, injure or endanger (causing death) [941.327(2)(b)4.]
12. Arson of a building; damage of property by explosives [943.02(1)]
13. Carjacking (with a dangerous weapon, and use or threat of that weapon) [943.23(1g)]
14. Armed robbery [943.32(2)]
15. Robbery of a financial institution by use or threat of force [943.87]
16. Absconding after being adjudicated delinquent for a Class C felony [946.50(3)]
17. Second-degree sexual assault of a child under 16 years old [948.02(2)]
18. Engaging in at least three repeated acts of first- or second-degree sexual assault of a child [948.025(1)(e)]
19. Physical abuse of a child (intentionally causing great bodily harm) [948.03(2)(a)]
20. Engaging in repeated acts of physical abuse of the same child (if at least one violation resulted in great bodily harm) [948.03(5)(a)3.]
21. Sexual exploitation of a child [948.05(2p)(a)]
22. Trafficking a child [948.051(1)]
23. Trafficking a child (benefiting in any manner from the violation) [948.051(2)]
24. Incest or failure to prevent incest with a child [948.06]
25. Using a computer to facilitate a child sex crime to communicate with an individual who the actor believes or has reason to believe is under 16 years old [948.075(1r)]
26. Sexual assault of a child placed in substitute care [948.085]
27. Abduction of another's child by use or threat of force [948.30(2)]
28. Manufacture, distribution or delivery of cocaine or cocaine base, more than 40 grams [961.41(1)(cm)4.]
29. Manufacture, distribution or delivery of heroin, more than 50 grams [961.41(1)(d)4.]
30. Manufacture, distribution or delivery of fentanyl, or an analog of fentanyl, more than 50 grams [961.41(1)(dm)3.]
31. Manufacture, distribution or delivery of phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, more than 50 grams [961.41(1)(e)4.]
32. Manufacture, distribution or delivery of certain other schedule I controlled substances or ketamine, more than 50 grams [961.41(1)(hm)4.]
33. Manufacture, distribution or delivery of flunitrozepam, more than 50 grams [961.41(1)(im)4.]
34. Possession with intent to manufacture, distribute or deliver cocaine or cocaine base, more than 40 grams [961.41(1m)(cm)4.]
35. Possession with intent to manufacture, distribute or deliver heroin, more than 50 grams [961.41(1m)(d)4.]
36. Possession with intent to manufacture, distribute or deliver fentanyl, or an analog of fentanyl, more than 50 grams [961.41(1m)(dm)3.]
37. Possession with intent to manufacture, distribute or deliver phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, more than 50 grams [961.41(1m)(e)4.]
38. Possession with intent to manufacture, distribute or deliver certain other schedule I controlled substances or ketamine, more than 50 grams [961.41(1m)(hm)4.]
39. Possession with intent to manufacture, distribute or deliver flunitrazepam, more than 50 grams [961.41(1m)(im)4.]

Class D Felonies

1. Striking a person or attended or occupied vehicle and not remaining at the scene (if the accident caused death) [346.74(5)(d)]
2. Attempt to commit child enticement [939.32(1)(d)]
3. Second-degree reckless homicide [940.06]
4. Homicide by intoxicated use of a vehicle [940.09(1c)(a)]
5. Homicide by intoxicated use of a firearm [940.09(1g)]
6. First-degree reckless injury [940.23(1)]

Class D Felonies (continued)

7. Abuse of vulnerable adults under circumstances that cause death by negligent maltreatment, except for employees of certain institutions, facilities and programs [940.285(2)(b)1g.]
8. Abuse or neglect by employees of certain institutions, facilities or programs of persons at risk under circumstances that cause death by negligent abuse or neglect [940.295(3)(b)1g.]
9. Human trafficking (knowingly engaging in) [940.302(2)(a)]
10. Human trafficking (benefiting in any manner from the violation) [940.302(2)(b)]
11. Possession of body armor, second or subsequent offense [941.291(3)(b)]
12. Theft of farm raised fish, second or subsequent offense [943.74(3)(b)]
13. Bestiality (if in the presence of a child under 13 years old, or if forcing, coercing, enticing or encouraging a child under age 13 to engage in bestiality), second or subsequent offense [944.18(3)(a)]
14. Absconding after being adjudicated delinquent for a Class D felony [946.50(4)]
15. Engaging in repeated acts of physical abuse of the same child (if at least one violation created a high probability of great bodily harm) [948.03(5)(a)4.]
16. Child enticement [948.07]
17. Soliciting a child for prostitution [948.08]
18. Possessing, accessing, exhibiting, or playing child pornography [948.12(3)(a)]
19. Neglect of a child (causing death) [948.21(3)(a)]
20. Chronic neglect of a child (if great bodily harm is a consequence or if the child becomes a victim of a child sex offense as a consequence) [948.215(2)(b)]
21. Failure to report the disappearance of a child within a specified time period (if the child dies while he or she is missing or as a result of injury he or she suffered while missing) [948.23(3)(c)4.]
22. Contributing to the delinquency of a child (causing death) [948.40(4)(a)]
23. Manufacture, distribution or delivery of cocaine or cocaine base, more than 15 grams, but not more than 40 grams [961.41(1)(cm)3.]
24. Manufacture, distribution or delivery of heroin, more than 10 grams but not more than 50 grams [961.41(1)(d)3.]
25. Manufacture, distribution or delivery of fentanyl, or an analog of fentanyl, more than 10 grams but not more than 50 grams [961.41(1)(dm)2.]
26. Manufacture, distribution or delivery of phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, more than 10 grams but not more than 50 grams [961.41(1)(e)3.]
27. Manufacture, distribution or delivery of certain other schedule I controlled substances or ketamine, more than 10 grams but not more than 50 grams [961.41(1)(hm)3.]
28. Manufacture, distribution or delivery of flunitrazepam more than 10 grams but not more than 50 grams [961.41(1)(im)3.]
29. Possession with intent to manufacture, distribute or deliver cocaine or cocaine base, more than 15 grams but not more than 40 grams [961.41(1m)(cm)3.]
30. Possession with intent to manufacture, distribute or deliver heroin, more than 10 grams but not more than 50 grams [961.41(1m)(d)3.]
31. Possession with intent to manufacture, distribute or deliver fentanyl, or an analog of fentanyl, more than 10 grams but not more than 50 grams [961.41(1m)(dm)2.]
32. Possession with intent to manufacture, distribute or deliver phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, more than 10 grams but not more than 50 grams [961.41(1m)(e)3.]
33. Possession with intent to manufacture, distribute or deliver certain other schedule I controlled substances or ketamine, more than 10 grams but not more than 50 grams [961.41(1m)(hm)3.]
34. Possession with intent to manufacture, distribute or deliver flunitrazepam more than 10 grams but not more than 50 grams [961.41(1m)(im)3.]

Class E Felonies

1. Obtaining, selling, or soliciting more than 10 telephone records that pertain to another person without the person's consent [100.525(3)(c)]
2. Sale or disposal of denatured alcohol (causing death) [125.68(12)(c)]
3. Fleeing an officer (causing death) [346.17(3)(d)]

Class E Felonies (continued)

4. Operating a motor vehicle under the influence of an intoxicant or other drug, 10 or more previous violations [346.65(2)(am)7.]
5. Striking a person or attended or occupied vehicle and not remaining at the scene (if the accident involves injury to a person and the person suffers great bodily harm) [346.74(5)(c)]
6. Abortion of an unborn child by a person other than the pregnant woman; causing the death of the mother by an act done to destroy her unborn child [940.04(2)]
7. Aggravated battery (causing great bodily harm to another by an act done with intent to cause great bodily harm) [940.19(5)]
8. Aggravated battery to an unborn child (causing great bodily harm to an unborn child by an act done with intent to cause great bodily harm) [940.195(5)]
9. Recklessly causing great bodily harm to an elder person [940.198(3)(a)]
10. Abuse of a patient or resident (causing great bodily harm) [940.295(3)(b)1m.]
11. Possession of body armor, first offense [941.291(3)(a)]
12. Contributing to the death of another by obstructing emergency or rescue personnel [941.37(4)]
13. Aggravated burglary [943.10(2)]
14. Carjacking (by use or threat of force) [943.23(1r)]
15. Robbery by use or threat of force [943.32(1)]
16. Supervising, organizing, financing or managing three or more financial crimes within an 18-month period [943.88]
17. Transferring encumbered property (if the value of the property exceeds \$100,000) [943.91(5)]
18. Bestiality (if in the presence of a child age 13 to 17 years old, or if forcing, coercing, enticing or encouraging a child age 13 to 17 to engage in bestiality), second or subsequent offense [944.18(3)(a)]
19. Absconding after being adjudicated delinquent for a Class E felony [946.50(5)]
20. Engaging in racketeering activity [946.84(1)]
21. Engaging in a continuing criminal enterprise [946.85(1)]
22. Swatting (intentionally conveying false information that an emergency exists, if the information elicits or could elicit a response from a specialized tactical team) (causing great bodily harm) [947.014(3)]
23. Physical abuse of a child (recklessly causing great bodily harm) [948.03(3)(a)]
24. Engaging in repeated acts of physical abuse of the same child [948.03(5)(a)5.]
25. Chronic neglect of a child (causing emotional damage) [948.215(2)(c)]
26. Abduction of another's child [948.30(1)]
27. Manufacture, distribution or delivery of a narcotic included in schedule I or II [961.41(1)(a)]
28. Manufacture, distribution or delivery of cocaine or cocaine base, more than five grams, but not more than 15 grams [961.41(1)(cm)2.]
29. Manufacture, distribution or delivery of heroin, more than three grams but not more than 10 grams [961.41(1)(d)2.]
30. Manufacture, distribution or delivery of fentanyl, or an analog of fentanyl, 10 grams or less [961.41(1)(dm)1.]
31. Manufacture, distribution or delivery of phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, more than three grams but not more than 10 grams [961.41(1)(e)2.]
32. Manufacture, distribution or delivery of synthetic cannabinoids, more than 10,000 grams [961.41(1)(em)5.]
33. Manufacture, distribution or delivery of lysergic acid diethylamide, more than five grams [961.41(1)(f)3.]
34. Manufacture, distribution or delivery of psilocin or psilocylin, more than 500 grams [961.41(1)(g)3.]
35. Manufacture, distribution or delivery of THC, more than 10,000 grams or more than 200 plants containing THC [961.41(1)(h)5.]
36. Manufacture, distribution or delivery of certain other schedule I controlled substances or ketamine, more than three grams but not more than 10 grams [961.41(1)(hm)2.]
37. Manufacture, distribution or delivery of flunitrazepam more than three grams but not more than 10 grams [961.41(1)(im)2.]
38. Possession with intent to manufacture, distribute or deliver a narcotic included in schedule I or II [961.41(1m)(a)]
39. Possession with intent to manufacture, distribute or deliver cocaine or cocaine base, more than five grams but not more than 15 grams [961.41(1m)(cm)2.]
40. Possession with intent to manufacture, distribute or deliver heroin, more than three grams but not more than 10 grams [961.41(1m)(d)2.]

Class E Felonies (continued)

41. Possession with intent to manufacture, distribute or deliver fentanyl, or an analog of fentanyl, 10 grams or less [961.41(1m)(dm)1.]
42. Possession with intent to manufacture, distribute or deliver phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, more than three grams but not more than 10 grams [961.41(1m)(e)2.]
43. Possession with intent to manufacture, distribute or deliver synthetic cannabinoids, more than 10,000 grams [961.41(1m)(em)5.]
44. Possession with intent to manufacture, distribute or deliver lysergic acid diethylamide, more than five grams [961.41(1m)(f)3.]
45. Possession with intent to manufacture, distribute or deliver psilocin or psilocylin, more than 500 grams [961.41(1m)(g)3.]
46. Possession with intent to manufacture, distribute or deliver THC, more than 10,000 grams or more than 200 plants containing THC [961.41(1m)(h)5.]
47. Possession with intent to manufacture, distribute or deliver certain other schedule I controlled substances or ketamine, more than three grams but not more than 10 grams [961.41(1m)(hm)2.]
48. Possession with intent to manufacture, distribute or deliver flunitrazepam, more than three grams but not more than 10 grams [961.41(1m)(im)2.]
49. Manufacture, distribution or delivery of, or possession with intent to manufacture, distribute or deliver, a counterfeit substance included in schedule I or II which is a narcotic drug [961.41(2)(a)]

Class F Felonies

1. Sale and manufacture of liquor without a permit [125.66(3)]
2. Delivering denatured alcohol [125.68(12)(b)]
3. Fraudulently receiving deposits [134.16]
4. Falsification or withholding of information related to a declaration to a physician [154.15(2)]
5. Falsification or withholding of information related to a do-not-resuscitate order [154.29(2)]
6. False statement by an officer, director or employee of a credit union [186.80(2)]
7. False statement under oath or on any report or statement to the Division of Banking [214.93]
8. Falsification of records and dishonest acts by an officer, director, employee or agent of an association [215.12]
9. Illegal loans to government officials [221.0625(2)]
10. False statements by an officer, director or employee of a bank [221.1004(2)]
11. Hazardous waste transportation, storage, treatment or disposal, second or subsequent offense [291.97(2)(c)2.]
12. Fleeing an officer (causing great bodily harm) [346.17(3)(c)]
13. Operating a motor vehicle under the influence of an intoxicant or other drug, seven, eight or nine previous violations [346.65(2)(am)6.]
14. Solicitation to commit a crime for which the penalty is life imprisonment [939.30(2)]
15. Attempt to cause a person under 13 years old to view or listen to sexual activity or if the offender believes or has reason to believe the person has not attained the age of 13 [939.32(1)(cr)]
16. Mutilating, hiding, disfiguring, dismembering or dismantling a corpse [940.11(1) and (2)]
17. Intentionally causing bodily harm to an elder person under circumstances or conditions likely to cause great bodily harm [940.198(2)(c)]
18. Sexual exploitation by a therapist [940.22(2)]
19. Second-degree reckless injury [940.23(2)]
20. Intoxicated use of a vehicle (causing great bodily harm) [940.25(1)]
21. Intentional, reckless or negligent abuse of a vulnerable adult (causing great bodily harm) [940.285(2)(b)1m.]
22. Intentional, reckless or negligent abuse and neglect of patients and residents (causing great bodily harm) [940.295(3)(b)1r.]
23. Pandering (if knowingly received compensation from the earnings of debt bondage, prostitution or commercial sex act) [940.302(2)(c)]
24. Stalking (causing bodily harm, with a prior history of violence with the victim or using a dangerous weapon) [940.32(3)]
25. Endangering safety by intentionally discharging a firearm from a vehicle while on a highway or public parking lot [941.20(3)(a)]

Class F Felonies (continued)

26. Modifying a firearm to make it a machine gun [941.26(2)(b)]
27. First-degree recklessly endangering safety [941.30(1)]
28. Making, buying, transporting, possessing, or transferring explosives to commit a crime, or with knowledge of another intending to commit a crime [941.31(1)]
29. Administering a dangerous or stupefying drug with intent to facilitate the commission of a crime [941.32]
30. Tampering with household products with intent to kill, injure or endanger (causing great bodily harm) [941.327(2)(b)3.]
31. Burglary [943.10(1m)]
32. Theft (if the value of the property exceeds \$100,000) [943.20(3)(cm)]
33. Carjacking (taking and driving a vehicle without the owner's consent), second or subsequent offense [943.23(2)(b)]
34. Loan sharking [943.28]
35. Unlawful receipt of payments to obtain a loan for another (if the value of the payment exceeds \$2,500) [943.62(4)(c)]
36. Crimes against computer data or programs or against computers, computer equipment or supplies (if the offense creates a substantial and unreasonable risk of death or great bodily harm to another, causes damage valued at more than \$2,500, or causes an interruption or impairment of governmental operations, public communications, transportation or the supply of gas, water or other public services) [943.70(2)(b) 3g., 3r., 4. & (3)(b)4.]
37. Infecting animals with a contagious disease (intentional introduction) [943.76(2)]
38. Money laundering (if the value of the proceeds exceeds \$100,000) [943.895(3)(e)]
39. Incest [944.06]
40. Bestiality (if: (a) in the presence of a child under 13 years old, or if forcing, coercing, enticing or encouraging a child under age 13 to engage in bestiality, first offense; or (b) bestiality, or certain acts related to bestiality, second or subsequent offense, or if causing death or bodily harm to the animal) [944.18(3)(a)]
41. Sabotage [946.02(1)]
42. Sedition [946.03(1)]
43. Escape by individuals subject to Chapter 980 proceedings and/or supervision [946.42(3m)]
44. Assault by prisoners [946.43(1m)]
45. Public officer or public employee assisting or permitting escape [946.44(1g)]
46. Bringing a firearm into prison or jail; transferring a firearm to a prisoner [946.44(1m)]
47. Absconding after being adjudicated delinquent for a Class F felony [946.50(5d)]
48. Failure by a person responsible for the welfare of a child to prevent sexual assault of the child [948.02(3)]
49. Physical abuse of a child (causing bodily harm by conduct creating a high probability of great bodily harm) [948.03(2)(c)]
50. Failure by a person responsible for the welfare of a child to prevent great bodily harm to a child [948.03(4)(a)]
51. Causing mental harm to a child; failure by a person responsible for the welfare of a child to prevent mental harm to the child [948.04]
52. Sexual exploitation of a child (if the actor is under 18 years old when the offense occurs) [948.05(2p)(b)]
53. Causing a child under 13 years old to view or listen to sexual activity or if the offender believes or has reason to believe the child has not attained the age of 13 [948.055(2)(a)]
54. Child sex offender working with children under 16 years old [948.13(2)(a)]
55. Neglect of a child (if great bodily harm is a consequence or if the child becomes a victim of a child sex offense as a consequence) [948.21(3)(b)]
56. Chronic neglect of a child (causing bodily harm) [948.215(2)(d)]
57. Concealing or not reporting the death of a child (if the offense involved hiding or burying the corpse of a child without legal authority) [948.23(2)]
58. Failure to report the disappearance of a child within a specified time period (if the child suffers great bodily harm while missing) [948.23(3)(c)3.]
59. Interference with custody of a child with intent to deprive the custodian of custody rights; concealing a child [948.31(1)(b) & (3)]
60. Manufacture, distribution or delivery of cocaine or cocaine base, more than one gram but not more than five grams [961.41(1)(cm)1r.]
61. Manufacture, distribution or delivery of heroin, three grams or less [961.41(1)(d)1.]
62. Manufacture, distribution or delivery of phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, three grams or less [961.41(1)(e)1.]

Class F Felonies (continued)

63. Manufacture, distribution or delivery of synthetic cannabinoids, more than 2,500 grams but not more than 10,000 grams [961.41(1)(em)4.]
64. Manufacture, distribution or delivery of lysergic acid diethylamide, more than one gram but not more than five grams [961.41(1)(f)2.]
65. Manufacture, distribution or delivery of psilocin or psilocylin, more than 100 grams but not more than 500 grams [961.41(1)(g)2.]
66. Manufacture, distribution or delivery of THC, more than 2,500 grams but not more than 10,000 grams, or more than 50 plants containing THC but not more than 200 plants containing THC [961.41(1)(h)4.]
67. Manufacture, distribution or delivery of certain other schedule I controlled substances or ketamine, three grams or less [961.41(1)(hm)1.]
68. Manufacture, distribution or delivery of flunitrazepam, three grams or less [961.41(1)(im)1.]
69. Possession with intent to manufacture, distribute or deliver cocaine or cocaine base, more than one gram but not more than five grams [961.41(1m)(cm)1r.]
70. Possession with intent to manufacture, distribute or deliver heroin, three grams or less [961.41(1m)(d)1.]
71. Possession with intent to manufacture, distribute or deliver phencyclidine, amphetamine, methamphetamine, methcathinone, cathinone, N-benzylpiperazine or certain substituted cathinones, three grams or less [961.41(1m)(e)1.]
72. Possession with intent to manufacture, distribute or deliver synthetic cannabinoids, more than 2,500 grams but not more than 10,000 grams [961.41(1m)(em)4.]
73. Possession with intent to manufacture, distribute or deliver lysergic acid diethylamide, more than one gram but not more than five grams [961.41(1m)(f)2.]
74. Possession with intent to manufacture, distribute or deliver psilocin or psilocylin, more than 100 grams but not more than 500 grams [961.41(1m)(g)2.]
75. Possession with intent to manufacture, distribute or deliver THC, more than 2,500 grams but not more than 10,000 grams, or more than 50 plants containing THC but not more than 200 plants containing THC [961.41(1m)(h)4.]
76. Possession with intent to manufacture, distribute or deliver certain other schedule I controlled substances or ketamine, three grams or less [961.41(1m)(hm)1.]
77. Possession with intent to manufacture, distribute or deliver flunitrazepam, three grams or less [961.41(1m)(im)1.]
78. Possession of any amount of piperidine [961.41(1n)(c)]
79. Use of a person who is 17 years of age or under for the purpose of the manufacture, distribution or delivery of a controlled substance [961.455(1)]
80. Possession or disposal of waste from the manufacture of methamphetamine, second or subsequent offense [961.67(4)(b)]

Class G Felonies

1. Obtaining, selling or soliciting two or more telephone records that pertain to another person without the person's consent [100.525(3)(b)]
2. False statement to obtain unemployment insurance benefits (if the value is more than \$10,000) [108.24(1)(b)4.]
3. Providing alcoholic beverages to a minor (causing death) [125.075(2)(b)]
4. Use or manufacture of counterfeit cigarette stamps [139.44(1)]
5. Tampering with a cigarette meter [139.44(1m)]
6. Violation of fireworks manufacturing licensure requirement [167.10(9)(g)]
7. Intentional destruction of a PECFA record [292.63(10)(b)]
8. Operating a motor vehicle under the influence of an intoxicant or other drug, five or six previous violations [346.65(2)(am)5.]
9. Willful violation of fraudulent and prohibited practices statutes under state franchise investment law [553.52(1)]
10. Fraud in connection with the offer or sale of a franchise [553.52(2)]
11. Attempt to commit intimidation of a witness or victim [939.32(1)(c)]
12. Attempt to discharge a firearm in a known school zone [939.32(1)(e)]
13. Homicide resulting from negligent control of a vicious animal [940.07]
14. Homicide by negligent handling of a dangerous weapon, explosives or fire (excluding a health care provider acting within the scope of his or her practice or employment) [940.08(1)]
15. Negligent operation or handling of a dangerous weapon, explosives or fire (causing death to an unborn child) [940.08(2)]

Class G Felonies (continued)

16. Homicide by negligent operation of a vehicle [940.10]
17. Third-degree sexual assault [940.225(3)]
18. Strangulation or suffocation, second or subsequent offense, or a previous violation for a violent crime [940.235(2)]
19. Abuse of vulnerable adults (intentional maltreatment under circumstances likely to cause great bodily harm) [940.285(2)(b)1r.]
20. Intentional abuse or neglect of patients and residents (likely to cause great bodily harm) [940.295(3)(b)1r.]
21. Felony intimidation of a witness [940.43]
22. Felony intimidation of a victim [940.45]
23. Endangering safety by discharging a firearm into a vehicle or building or setting a spring gun [941.20(2)]
24. Possession of a firearm by certain persons [941.29(1m)]
25. Straw purchasing of firearms [941.2905(1)]
26. Second-degree recklessly endangering safety [941.30(2)]
27. Theft (if the value of the property exceeds \$10,000 but does not exceed \$100,000) [943.20(3)(c)]
28. Theft from the person of another or a corpse [943.20(3)(e)]
29. Unauthorized use or possession of a credit card scanner (obtains, purchases, or receives credit, money, goods, services, or any other thing of value) [943.202(2)(c)]
30. Carjacking (taking and driving a commercial vehicle without the owner's consent) [943.23(2g)]
31. Carjacking (driving a vehicle without the owner's consent), second or subsequent offense [943.23(3)(b)]
32. Knowingly or intentionally receiving stolen property (if the value of the property exceeds \$10,000) [943.34(1)(c)]
33. Fraudulent use of financial transaction cards (if the value of the money, goods, services, or property exceeds \$10,000 within a period not exceeding six months) [943.41(8)(c)]
34. Retail theft (if the value of the merchandise exceeds \$10,000) [943.50(4)(c)]
35. Money laundering (if the value of the proceeds is more than \$10,000 but not more than \$100,000) [943.895(3)(d)]
36. Transferring encumbered property (if the value of the property is more than \$10,000 but not more than \$100,000) [943.91(4)]
37. Bestiality (if in the presence of a child age 13 to 17 years old, or if forcing, coercing, enticing or encouraging a child age 13 to 17 to engage in bestiality), first offense [944.18(3)(a)]
38. Knowingly resisting or obstructing an officer while the officer is acting in an official capacity and with lawful authority (causing great bodily harm) [946.41(2t)]
39. Harboring or aiding a felon if the offense was a Class A, B, C, or D felony, or an unclassified felony punishable by life imprisonment [946.47(2m)(a)]
40. Absconding after being adjudicated delinquent for a Class G felony [946.50(5h)]
41. Illegal use of food stamps with a value of \$5,000 or more [946.92(3)(a)4.]
42. Illegal intent to secure public assistance if the value exceeds \$10,000 [946.93(3)(e)6.]
43. Terrorist threats (contributing to any individual's death) [947.019(2)]
44. Patronizing a child [948.081]
45. Abandonment of a child [948.20]
46. Neglect of a child (causing emotional damage) [948.21(3)(c)]
47. Hazing (causing death) [948.51(3)(c)]
48. Leaving a child unattended in a child care vehicle if the person is responsible for the child's welfare (causing death) [948.53(2)(b)4.]
49. Discharging or attempting to discharge a firearm in a school zone [948.605(3)(a)]
50. Receiving stolen property from a child (if the value of the property is more than \$5,000) [948.62(1)(c)]
51. Manufacture, distribution or delivery of cocaine or cocaine base, one gram or less [961.41(1)(cm)1g.]
52. Manufacture, distribution or delivery of synthetic cannabinoids, more than 1,000 grams but not more than 2,500 grams [961.41(1)(em)3.]
53. Manufacture, distribution or delivery of lysergic acid diethylamide, one gram or less [961.41(1)(f)1.]
54. Manufacture, distribution or delivery of psilocin or psilocylin, 100 grams or less [961.41(1)(g)1.]
55. Manufacture, distribution or delivery of THC, more than 1,000 grams but not more than 2,500 grams, or more than 20 plants containing THC but not more than 50 plants containing THC [961.41(1)(h)3.]
56. Possession with intent to manufacture, distribute or deliver cocaine or cocaine base, one gram or less [961.41(1m)(cm)1g.]

Class G Felonies (continued)

57. Possession with intent to manufacture, distribute or deliver synthetic cannabinoids, more than 1,000 grams but not more than 2,500 grams [961.41(1m)(em)3.]
58. Possession with intent to manufacture, distribute or deliver lysergic acid diethylamide, one gram or less [961.41(1m)(f)1.]
59. Possession with intent to manufacture, distribute or deliver psilocin or psilocylin, 100 grams or less [961.41(1m)(g)1.]
60. Possession with intent to manufacture, distribute or deliver THC, more than 1,000 grams but not more than 2,500 grams or more than 20 plants containing THC but not more than 50 plants containing THC [961.41(1m)(h)3.]
61. Using, or possessing with primary intent to use, drug paraphernalia to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or an analog of methamphetamine (if in the presence of a child who is age 14 or younger) [961.573(3)(b)2.]
62. Delivery or possession of drug paraphernalia with intent to deliver, by any person age 17 or older, to any person 17 years or younger for use to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or an analog of methamphetamine [961.575(3)]

Class H Felonies

1. Criminal violation of lobby law statutes [13.69(6m)]
2. Interfering with an all-terrain vehicle route, trail sign or standard (causing death or injury) [23.33(13)(cg)]
3. Interfering with an off-highway motorcycle route, trail sign or standard (causing death or injury) [23.335(23)(f)]
4. Intentionally setting fires to land of another or a marsh [26.14(8)]
5. Failure to render aid in a boating accident (causing death) [30.80(2g)(d)]
6. Falsifying boat certificate or title, or altering hull or engine serial numbers [30.80(3m)]
7. Removal, deposit or concealment of property or aiding in the removal, deposit or concealment of any property with intent to evade or defeat the assessment or collection of any debt under the Aid to Families with Dependent Children and Wisconsin Works programs [49.195(3n)(k)]
8. Violation of a rule relating to prescription drug assistance for elderly persons [49.688(9)(b)]
9. False statement related to emergency mental health detentions [51.15(12)]
10. False statement related to protective services placements [55.135(2)]
11. False statement related to securing or assisting in the securing of housing for persons of low income in order to receive more than \$25,000 [66.1207(1)(c)]
12. False income tax return; fraud by a person other than a corporation or limited liability company [71.83(2)(b)1.]
13. False franchise or income tax return; fraud by an officer of a corporation [71.83(2)(b)2.]
14. Fraudulent claim for tax credit [71.83(2)(b)4.]
15. Tampering with road signs (causing death) [86.192(4)]
16. Use of meat from dead or diseased animals [97.43(4)]
17. Knowingly making a false statement in an application for a certificate of title for a manufactured home [101.9204(2)]
18. False statement to obtain unemployment insurance benefits (if the value is more than \$5,000 but not more than \$10,000) [108.24(1)(b)3.]
19. Fraudulent motor vehicle emission inspection reports [110.20(15)(b)1.]
20. Intoxicated and reckless flying, five or more previous violations [114.09(2)(a)5.]
21. False statement related to aircraft registration [114.20(18)(c)]
22. Providing alcohol beverages to a minor (if the minor suffers great bodily harm) [125.075(2)(a)]
23. Impersonating an agent, inspector or employee of DOR or DOJ in commission of a crime [125.105(2)(b)]
24. Trafficking in counterfeit trademarks and other commercial marks with intent to deceive [132.20(2)]
25. Unlawful contracts or conspiracies in restraint of trade or commerce [133.03(1)]
26. Monopolization of any part of trade or commerce [133.03(2)]
27. Fraudulent issuance or use of warehouse receipts or bills of lading with intent to defraud [134.20(1)]
28. Issuing warehouse receipts without entering item into register with intent to defraud [134.205(4)]
29. Intentionally using, attempting to use, or possessing with intent to use, personal identifying information or a personal identification document of an individual, including a deceased individual, without authorization or consent of the individual, for the purpose of obtaining credit, goods, or services [139.345(3)(b)3.]
30. Prohibited sale of human organs for transplantation [146.345(3)]
31. Female genital mutilation [146.35(5)]
32. Prohibited acts related to records of anatomical gifts [157.06(17)]

Class H Felonies (continued)

33. Intentionally providing false information on a firearm background check (regarding intent to transfer the firearm to a person who is prohibited from possessing a firearm) [175.35(3)(b)2.]
34. False statement related to a motor vehicle salvage dealer license [218.21(7)]
35. Theft by a bank employee or officer [221.0636(2)]
36. Violation of statutes related to the Women, Infant and Children program, second or subsequent offense [253.06(4)(b)]
37. Filing of false 911 report [256.35(10)(a)]
38. Transportation of hazardous waste to an unlicensed facility or site, and storage, treatment, transportation or disposal of any hazardous waste without a license, first offense [291.97(2)(b)]
39. Failure to comply with sex offender registration requirements (excluding certain sex registrants convicted of sexually motivated misdemeanors, first offenses) [301.45(6)(a)1.]
40. Criminal violations of restrictions on sex registrants establishing or changing residence (excluding certain sex registrants convicted of sexually motivated misdemeanors, first offenses) [301.45(6)(ag)1.]
41. Prohibition on sex offender name changes (excluding certain sex registrants convicted of sexually motivated misdemeanors) [301.47(3)(a)]
42. Violation of sex offender notification to schools, second or subsequent offense [301.475(2)(b)]
43. Unlawful transfer of license plates, insert tag, decal or other evidence of registration or the transfer of counterfeit, forged or fictitious license plates, insert tag, decal or other evidence of registration [341.605(3)]
44. False statement in an application for a vehicle title [342.06(2)]
45. Failing to obtain title for salvage vehicle, with intent to defraud [342.065(4)(b)]
46. Violation of mileage disclosure requirements, with intent to defraud [342.155(4)(b)]
47. Transfer of leased vehicles, with intent to defraud [342.156(6)(b)]
48. Removal or alteration of a vehicle identification number [342.30(3)(a)]
49. Counterfeiting and unlawful possession of a certificate of title [342.32(3)]
50. Operating a motor vehicle upon a highway if the person knows he or she does not possess a valid operator's license (causing death) [343.05(5)(b)(5).]
51. Operating a motor vehicle upon a highway if the person knows that his or her operating privilege has been suspended (causing death) [343.44(2)(ag)3.]
52. Operating a motor vehicle upon a highway if the person knows that his or her operating privilege has been revoked (causing death) [343.44(2)(ar)4.]
53. Fleeing an officer (causing bodily harm or damage to property) [346.17(3)(b)]
54. Operating a motor vehicle under the influence of an intoxicant or other drug, four previous violations [346.65(2)(am)4.]
55. Operating a motor vehicle under the influence of an intoxicant or other drug (causing injury), second or subsequent offense [346.65(3p)]
56. Interfering with a snowmobile route, trail sign or standard (causing death or injury) [350.11(2m)]
57. Prohibited wholesale distribution of prescription drugs [450.074(3)]
58. Prohibited delivery or possession with intent to manufacture or deliver a prescription drug in violation of the Pharmacy Examining Board statutes [450.11(9)(b)]
59. Illegal delivery of poisons [450.14(5)]
60. Placing of prescription drugs: (a) in public place; or (b) upon private premises without consent of owner or occupant [450.15(2)]
61. Willful violation of securities law [551.508(1)]
62. Willful violation of corporate take-over law [552.19(1)]
63. Tampering with race animals; illegal killing of race dogs; counterfeiting race tickets with intent to defraud; illegal race activities [562.13(4)]
64. Failure or neglect to respond to a writ of mandamus [783.07]
65. Solicitation to commit a felony (other than a Class A or Class I felony) [939.30(1)]
66. Attempt to disarm a peace officer [939.32(1)(cm)]
67. Attempt to cause a child between the ages of 13 and 17 to view or listen to sexual activity or if the offender believes or has reason to believe the child is between the ages of 13 and 17 [939.32(1)(cr)]
68. Attempt to give false identifying information or statements to a financial institution [939.32(1)(f)]
69. Abortion by a person other than the pregnant woman [940.04(1)]
70. Assisting suicide [940.12]

Class H Felonies (continued)

71. Aggravated battery (causing great bodily harm to another by an act done with intent to cause bodily harm; or causing bodily harm to another by conduct that creates a substantial risk of great bodily harm) [940.19(4) & (6)]
72. Aggravated battery to an unborn child (causing great bodily harm to an unborn child by an act done with intent to cause bodily harm; or causing bodily harm to an unborn child by conduct that creates a substantial risk of great bodily harm) [940.195(4) & (6)]
73. Intentionally causing bodily harm to an elder person or recklessly causing bodily harm to an elder person under circumstances or conditions likely to produce great bodily harm [940.198(2)(b) & (3)(c)]
74. Battery by prisoners [940.20(1)]
75. Battery by persons detained or committed to institutional care for sexually violent persons [940.20(1g)]
76. Battery to fire fighters or commission wardens [940.20(2)]
77. Battery or threat to cause bodily harm to probation and parole agents, community supervision agents or aftercare agents, or family members of any of the aforementioned individuals, under certain circumstances [940.20(2m)(b)]
78. Battery to jurors [940.20(3)]
79. Battery or threat to witnesses, or family members of witnesses [940.201(2)]
80. Battery or threat to cause bodily harm to an officer of the court, law enforcement officer, attorney, guardian ad litem, advocate, or family members of any of the aforementioned individuals [940.203(2) & (3)]
81. Battery or threat to cause bodily harm to a person who works in a healthcare facility or is a health care provider, or family members of any of the aforementioned individuals, under certain circumstances [940.204(2) & (3)]
82. Battery or threat to a Department of Revenue employee [940.205(2)]
83. Battery or threat to a Department of Safety and Professional Services or Department of Workforce Development employee [940.207(2)]
84. Strangulation or suffocation, first offense [940.235(1)]
85. Intentional abuse of vulnerable adults (causing bodily harm) [940.285(2)(b)2.]
86. Intentional abuse or neglect of patients or residents of certain facilities (causing bodily harm) [940.295(3)(b)2.]
87. Reckless or negligent abuse or neglect of patients or residents of certain facilities (causing great bodily harm) [940.295(3)(b)3.]
88. False imprisonment [940.30]
89. Stalking (if the defendant intentionally gains access to certain records in order to facilitate the violation or if the defendant has a prior stalking or harassment conviction) [940.32(2m)]
90. Unsafe burning of buildings [941.11]
91. Endangering safety by intentionally pointing a firearm at a law enforcement officer, fire fighter, emergency medical technician, first responder, ambulance driver or commission warden [941.20(lm)(b)]
92. Disarming a peace officer [941.21]
93. Selling, possessing, using or transporting a machine gun [941.26(2)(a)]
94. Sale or commercial transportation of a tear gas bomb, grenade, projectile, shell or other tear gas device [941.26(2)(e)]
95. Using a tear gas bomb, grenade, projectile, shell or other tear gas device to cause bodily harm or bodily discomfort to a peace officer [941.26(2)(f)]
96. Using or threatening to use a tear gas bomb, grenade, projectile, shell or other tear gas device during commission of a crime to cause bodily harm or bodily discomfort to another [941.26(2)(g) & (4)(e)]
97. Using a pepper spray device to cause bodily harm or bodily discomfort to a peace officer [941.26(4)(d)]
98. Selling, transporting or possessing a short-barreled shotgun or rifle [941.28(3)]
99. Illegally operating a weaponized drone [941.292(2)]
100. Selling, manufacturing or possessing an electric weapon (except for peace officers, law enforcement personnel, armed forces personnel or a manufacturer or seller of electric weapons) [941.295(1m)]
101. Using or possessing a handgun with armor-piercing bullets during the commission of certain crimes [941.296(2)]
102. Selling, delivering or possessing a firearm silencer [941.298(2)]
103. Making, buying, selling, transporting, possessing, using or transferring an improvised explosive device or possessing materials or components with intent to assemble an improvised explosive device [941.31(2)(b)]
104. Unlawful delivery or distribution of nitrous oxide [941.315(3)]
105. Tampering with household products with intent to kill, injure or endanger (creating a high probability of great bodily harm) [941.327(2)(b)2.]
106. Intentional violation of a court order for no victim, witness, or co-actor contact [941.39(1)]
107. Unlawful visual representations of nudity (if the victim is a minor) [942.09(2)(dr) and (5)(bn)]

Class H Felonies (continued)

108. Criminal damage to energy provider property [943.01(2k)(b)]
109. Arson with intent to defraud [943.04]
110. Possession, manufacture or transfer of a fire bomb [943.06(2)]
111. Criminal trespass to an energy provider property [943.143(2)]
112. Theft (if the value of the property exceeds \$5,000 but does not exceed \$10,000) [943.20(3)(bm)]
113. Theft (under certain circumstances) [943.20(3)(d)]
114. Unauthorized use of an individual's personal identifying information or documents [943.201(2)]
115. Unauthorized use or possession of a credit card scanner (intent to transfer to another who will use or intends to use for unauthorized use of identity or access to account information) [943.202(2)(b)1.]
116. Unauthorized use or possession of a credit card scanner (use or attempt for unauthorized use of identity or access to account information) [943.202(2)(b)2.]
117. Unauthorized use of an entity's identifying information or documents [943.203(2)]
118. Mail theft (if the number of pieces of mail is 30 or more, or if the mail is addressed to an at risk individual) [943.204(3)(c) & (d)]
119. Unlawful transfer of recorded sounds (if involving at least 1,000 recordings or if the transferred sounds are replayed by others from the Internet at least 1,000 times during a 180-day period or after the person has been convicted of such unlawful transfer) [943.207(3m)(c)]
120. Recording performance without consent of performance owner (if involving at least 1,000 sound recordings or 100 audiovisual recordings during a 180-day period or after the person has been convicted of such recording) [943.208(2)(c)]
121. Failure to disclose manufacturer of a recording (if involving at least 100 recordings during a 180-day period or after the person has been convicted of failure to disclose the manufacturer of a recording) [943.209(2)(c)]
122. Carjacking (taking and driving a vehicle without the owner's consent), first offense [943.23(2)(a)]
123. Carjacking (driving a commercial vehicle without the owner's consent) [943.23(3g)]
124. Threats to injure or accuse of a crime (extortion) [943.30]
125. Knowingly or intentionally receiving stolen property (if the value exceeds \$5,000 but does not exceed \$10,000, or if the property is a firearm) [943.34(1)(bm)]
126. Forgery of certain documents; uttering certain forged documents [943.38(1) & (2)]
127. Fraudulent writings [943.39]
128. Fraudulent destruction of certain writings [943.40]
129. Fraudulent use of financial transaction cards (if the value of the money, goods, services or property exceeds \$5,000 but does not exceed \$10,000 within a period not exceeding six months) [943.41(8)(c)]
130. Retail theft (if the value of the merchandise exceeds \$5,000 but does not exceed \$10,000) [943.50(4)(bm)]
131. Criminal slander of title [943.60(1)]
132. Theft of library material (if the value of the library materials exceeds \$2,500) [943.61(5)(c)]
133. Crimes against computers (if the damage is greater than \$2,500 to the computer, computer system, computer network, equipment or supplies) [943.70(3)(b)3.]
134. Unauthorized release of animals lawfully confined [943.75(2m)]
135. Infecting animals with a contagious disease (threat) [943.76(4)]
136. False representation of a financial institution to obtain money, goods, services or personal identifying information [943.82(2)]
137. Bribery involving a financial institution [943.85]
138. Extortion against a financial institution [943.86]
139. Mail fraud involving a financial institution [943.89]
140. Money laundering (if the value of the proceeds is more than \$5,000 but not more than \$10,000) [943.895(3)(c)]
141. Wire fraud against a financial institution [943.90]
142. Transferring encumbered property (if the value of the property exceeds \$500 but does not exceed \$10,000) [943.91(3)]
143. Bestiality or certain acts related to bestiality, first offense [944.18(3)(a)]
144. Obscene material or performance (if the person has two or more prior obscenity convictions or if the violation is for a wholesale transfer or distribution of obscene material) [944.21(5)(c) & (e)]
145. Soliciting prostitutes [944.32]
146. Keeping a place of prostitution [944.34]
147. Bribery of a participant in a contest [945.08(1)]

Class H Felonies (continued)

148. Bribery of public officers and employees [946.10]
149. Perjury [946.31(1)]
150. False swearing [946.32(1)]
151. Obstructing an officer (by giving or providing information or evidence that results in the conviction of an innocent person) [946.41(2m)]
152. Knowingly resisting or obstructing an officer while the officer is acting in an official capacity and with lawful authority (causing substantial bodily harm or soft tissue injury) [946.41(2r)]
153. Escape by individuals in custody of an agent or officer, based on an alleged violation of the rules or conditions of probation, parole or extended supervision [946.42(2m)]
154. Felony escape [946.42(3)]
155. Felony failure to report to jail [946.425(1), (1m)(b) & (1r)(b)]
156. Assisting or permitting escape [946.44(1)]
157. Intentionally providing false information regarding kidnapped or missing persons [946.48(1)]
158. Felony bail jumping [946.49(1)(b)]
159. Absconding after being adjudicated delinquent for a Class H felony [946.50(5p)]
160. Bribery of a witness [946.61(1)]
161. Simulating legal process (if the act is meant to induce payment of a claim or simulates any criminal process) [946.68(1r)(b) & (c)]
162. Impersonating peace officers, fire fighters, or other emergency personnel with intent to commit a crime or aid and abet the commission of a crime [946.70(2)]
163. Tampering with public records [946.72(1)]
164. Aiding escape from a mental institution, with intent to commit a crime against sexual morality with or upon the inmate of the institution [946.74(2)]
165. False statement regarding military service, with intent to commit or aid or abet the commission of a crime [946.78(3)]
166. False statements to financial institutions [946.79(2)]
167. Criminal violations for Wisconsin Works fraud [946.90(3), (4), & (5)]
168. Criminal violations for Medical Assistance fraud [946.91(2) thru (6)]
169. Illegal use of food stamps with a value over \$100, but less than \$5,000, second or subsequent offense [946.92(3)(a)3.]
170. Illegal intent to secure public assistance (if the value exceeds \$5,000 but does not exceed \$10,000) [946.93(3)(e)5.]
171. Criminal violations for public assistance fraud [946.93(5)(a) & (b)]
172. Harassment (if defendant has a prior conviction for certain offenses or intentionally gains access to certain records in order to facilitate the violation) [947.013(1v) & (1x)]
173. Swatting (intentionally conveying false information that an emergency exists, if the information elicits or could elicit a response from a specialized tactical team) (causing bodily harm) [947.014(3)]
174. Physical abuse of a child (intentionally causing bodily harm) [948.03(2)(b)]
175. Physical abuse of a child (recklessly causing bodily harm to a child by conduct which creates a high probability of great bodily harm) [948.03(3)(c)]
176. Failure to act to prevent bodily harm to a child, knowing that another intends to or has done so [948.03(4)(b)]
177. Causing a child between the ages of 13 and 17 to view or listen to sexual activity or if the offender believes or has reason to believe the child is between the ages of 13 and 17 [948.055(2)(b)]
178. Sexual assault of a child 16 years or older by a school staff person or a person who works or volunteers with children [948.095]
179. Neglect of a child (causing bodily harm) [948.21(3)(d)]
180. Chronic neglect of a child (if the natural and probable consequence of the violation would harm the child, although the harm did not actually occur) [948.215(2)(e)]
181. Failure to report the disappearance of a child within a specified time period (if the child suffers bodily harm or substantial bodily harm while missing) [948.23(3)(c)2.]
182. Unauthorized placement for adoption [948.24(1)]
183. Contributing to the delinquency of a child (if the child's act which is encouraged or contributed to is a violation of a criminal law punishable as a felony) [948.40(4)(b)]
184. Hazing (causing great bodily harm) [948.51(3)(b)]
185. Leaving a child unattended in a child care vehicle if the person is responsible for the child's welfare (causing great bodily harm) [948.53(2)(b)3.]

Class H Felonies (continued)

186. Selling, loaning, or giving a dangerous weapon to a person under 18 years old (if the person under 18 years discharges the firearm and the discharge causes death) [948.60(2)(c)]
187. Receiving stolen property from a child (if the value of the property is more than \$2,500 but not more than \$5,000, or if the property is a firearm) [948.62(1)(bm)]
188. Instigating fights between animals, second or subsequent offense [951.18(2)]
189. Harassment of police or fire department animals (causing death to the animal) [951.18(2m)]
190. Harassment of service dogs (if intentionally causing the death of the dog, or intending to deprive another of the use of the dog) [951.18(2s)]
191. Manufacture, distribution or delivery of any other controlled substance included in schedule I, II or III, or an analog of any other controlled substance included in schedule I or II [961.41(1)(b)]
192. Manufacture, distribution or delivery of synthetic cannabinoids, more than 200 grams but not more than 1,000 grams [961.41(1)(em)2.]
193. Manufacture, distribution or delivery of THC, more than 200 grams but not more than 1,000 grams, or more than four plants containing THC but not more than 20 plants containing THC [961.41(1)(h)2.]
194. Manufacture, distribution or delivery of a controlled substance included in schedule IV, except flunitrazepam [961.41(1)(i)]
195. Possession with intent to manufacture, distribute or deliver any other controlled substance included in schedule I, II or III, or a controlled substance analog of a controlled substance included in schedule I or II [961.41(1m)(b)]
196. Possession with intent to manufacture, distribute or deliver synthetic cannabinoids, more than 200 grams but not more than 1,000 grams [961.41(1m)(em)2.]
197. Possession with intent to manufacture, distribute or deliver THC, more than 200 grams but not more than 1,000 grams, or more than four plants containing THC but not more than 20 plants containing THC [961.41(1m)(h)2.]
198. Possession with intent to manufacture, distribute or deliver a controlled substance included in schedule IV, except flunitrazepam [961.41(1m)(i)]
199. Manufacture, distribution or delivery of or intent to manufacture, distribute or deliver, any other counterfeit substance included in schedule I, II, III or IV [961.41(2)(b)]
200. Possession or attempted possession of gamma-hydroxybutyric acid (GHB), gamma-butyrolactone, 1, 4-butanediol, ketamine or flunitrazepam [961.41(3g)(f)]
201. Acquire or obtain a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge [961.43(2)]
202. Knowingly solicit, hire, direct, employ, or use another to purchase a pseudoephedrine product on his or her behalf, with the intent to acquire more than 7.5 grams of a pseudoephedrine product within a 30-day period, if the person who is solicited, hired, directed, employed, or used to purchase the pseudoephedrine product is an individual under 18 years old [961.453(1)(b)2.]
203. Use of, or possession with primary intent to use, drug paraphernalia to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or an analog of methamphetamine, if not in the presence of a child aged 14 or younger [961.573(3)(b)1.]
204. Delivery, possession with intent to deliver, or manufacture with intent to deliver drug paraphernalia used to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or an analog of methamphetamine [961.574(3)]
205. Possession of ephedrine or pseudoephedrine product, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, or pressurized ammonia with intent to manufacture methamphetamine [961.65]
206. Possession or disposal of waste from manufacture of methamphetamine, first offense [961.67(4)(a)]
207. Illegal interception and disclosure of wire, electronic, or oral communications [968.31(1)]
208. Violation of an oath by a stenographic reporter or typewriter operator in connection with a grand jury [968.43(3)]

Class I Felonies

1. Criminal violations of campaign finance statutes [11.1401(1)(a) & (b)]
2. Criminal violations of elections statutes [12.60(1)(a)]
3. Prohibited logrolling by members of the Legislature [13.05]
4. Prohibited granting of executive favor by members of the Legislature [13.06]
5. Political influence violations of conduct standards and ethics codes for state and local public officials [19.58(1)(b)]
6. Taking, transporting, acquiring, selling, purchasing, or possessing (or attempting these actions), or failing to comply with any record-keeping requirement for fish with a value exceeding \$1,000 [29.971(1)(c)]

Class I Felonies (continued)

7. Possession of clams with a value exceeding \$1,000 [29.971(1m)(c)]
8. Failure to render aid in a boating accident that involves injury (causing great bodily harm) [30.80(2g)(c)]
9. Improper release of mines and explored mine land information by employees of the Geological and Natural History Survey or Department of Revenue [36.25(6)(d)]
10. Removing, disconnecting, tampering with, or otherwise circumventing operation of child safety alarm installed in a child care vehicle, except for testing, repairing, or maintaining alarm or replacing or disposing of a malfunctioning alarm; prohibiting shutting off child safety alarm installed in a child care vehicle unless first inspecting vehicle to ensure no child is left unattended in vehicle [48.658(3)(bm)]
11. Employment discrimination against an individual to a levy associated with aids to families with dependent children or Wisconsin Works programs [49.195(3n)(r)]
12. False statement related to securing or assisting in the securing of housing for persons of low income in order to receive at least \$2,500 but not more than \$25,000 [66.1207(1)(b)]
13. Fraudulent or destroyed vital statistical record [69.24(1)]
14. Tampering with records of the Board of Review with intent to injure or defraud [70.47(18)(a)]
15. Tax evasion [71.83(2)(b)3.]
16. Intentional violation of prize notification laws [100.171(7)(b)]
17. Violation of commission merchant duties and responsibilities [100.26(2)]
18. Obtaining, selling, or soliciting a telephone record that pertains to another person without the person's consent [100.525(3)(a)]
19. Illegal handling and storage of anhydrous ammonia or anhydrous ammonia equipment [101.10(4)(b)]
20. Tampering with a carbon monoxide detector in residential building, second or subsequent offense [101.149(8)(c)2.]
21. Intent to evade collection of uninsured employer levies under employment compensation law [102.835(11)]
22. Violation of an order to cease operation because of a lack of worker's compensation insurance [102.85(3)]
23. Evading collection of unemployment compensation levies under employment compensation law [108.225(11)]
24. False statement to obtain unemployment insurance benefits (if the value is more than \$2,500 but not more than \$5,000) [108.24(1)(b)2.]
25. Receiving money or other considerations for providing false proof of age [125.085(3)(a)2.]
26. Knowing violation by scrap dealer of purchase and sales of certain scrap material provisions, second or subsequent offense [134.405(5)(ap)]
27. Unauthorized use of armed persons to protect persons or property or to suppress strikes [134.58]
28. Unlawful possession of cigarettes if the number exceeds 36,000 [139.44(8)(c)]
29. Filing false documents under Chapter 178 Uniform Partnership Law [178.0120(4)]
30. Filing of a false document with DFI, business corporations [180.0129(2)]
31. Filing of a false document with DFI, nonstock corporations [181.0129(2)]
32. Filing of a false document with DFI, cooperatives [185.825]
33. Illegal disclosure of information by employees of the Office of Credit Unions or members of the Credit Union Review Board [186.235(7)(c)]
34. Fraudulently obtaining or using a certificate of authority to issue any security by a public service corporation [201.09(2)]
35. Illegal disclosure of savings and loan association information by employees of the Division of Banking [215.02(6)(b)]
36. Giving or accepting bribes for loans [215.21(21)]
37. Illegal disclosure of bank or licensee information by employees of the Division of Banking [220.06(2)]
38. Illegal commission to bank office and employees [221.0637(2)]
39. Violation of statutes related to the Women, Infant and Children Program, first offense [253.06(4)(b)]
40. Violation of prescription and use of abortion-inducing drugs [253.105(3)]
41. Prohibition on certain abortions [253.107(4)]
42. Intentional violation of air pollution statutes and rules, second or subsequent offense [285.87(2)(b)]
43. Violation of hazardous waste handling reporting requirements, second or subsequent offense [291.97(2)(c)1.]
44. False statement to DNR related to used oil facilities, second or subsequent offense [299.53(4)(c)2.]
45. Illegal delivery of articles to inmates by prison or jail employees [302.095(2)(a)]
46. Illegal possession of articles contrary to prison or jail rules or regulations with intent to retain for oneself [302.095(2)(b)]
47. Knowing and willful failure to report release of a hazardous substance [323.60(11)(b)1. & 2.]

Class I Felonies (continued)

48. Operating a motor vehicle upon a highway (if the person knows he or she does not possess a valid operator's license, and causes great bodily harm) [343.05(5)(b)4.]
49. Operating a motor vehicle upon a highway (if the person knows his or her operating privilege has been suspended, and causes great bodily harm) [343.44(2)(ag)2.]
50. Operating a motor vehicle upon a highway (if the person knows his or her operating privilege has been revoked, and causes great bodily harm) [343.44(2)(ar)3.]
51. Fleeing an officer [346.17(3)(a)]
52. Negligent use of a vehicle (causing great bodily harm) [346.65(5)]
53. Violation of Dental Examining Board statutes, second or subsequent offense within five years [447.09]
54. Facilitation of off-track wagering or possession of fraudulent wagering tickets with intent to defraud [562.13(3)]
55. Forged or altered lottery ticket [565.50(2)]
56. Intentional violation of an insurance statute or rule [601.64(4)]
57. Intentional violation or permitting a person to violate regulations of care management organizations [648.35(5)]
58. Intentional violation of an injunction ordering a respondent to strictly comply with a judgment or order related to physical placement [767.471(8)]
59. Solicitation to commit a Class I felony [939.30(2)]
60. Attempt to illegally handle and store anhydrous ammonia or anhydrous ammonia equipment [939.32(1)(g)]
61. Violation of conditions of lifetime supervision (if the violation also constitutes a felony) [939.615(7)(b)2.]
62. Abortion (various prohibitions) [940.15]
63. Aggravated battery (causing substantial bodily harm to another by an act done with intent to cause bodily harm) [940.19(2)]
64. Aggravated battery to an unborn child (causing substantial bodily harm to an unborn child by an act done with intent to cause bodily harm) [940.195(2)]
65. Recklessly causing bodily harm to an elder person [940.198(3)(b)]
66. Battery by a person subject to certain injunctions [940.20(1m)]
67. Battery to public officers [940.20(4)]
68. Battery to a technical college district or school district officer or employee [940.20(5)(b)]
69. Battery to a public transit vehicle operator or passenger [940.20(6)(b)]
70. Battery to certain employees of counties, cities, villages, or towns [940.208]
71. Negligent handling of a dangerous weapon, explosives or fire (excluding a health care provider acting within the scope of his or her practice or employment, causing bodily harm) [940.24(1)]
72. Negligent operation or handling of a dangerous weapon, explosives or fire (causing bodily harm to an unborn child) [940.24(2)]
73. Abuse of vulnerable adults (reckless or negligent maltreatment under circumstances likely to cause great bodily harm) [940.285(2)(b)1r.]
74. Intentional abuse of vulnerable adults (under circumstances likely to cause bodily harm) [940.285(2)(b)2.]
75. Abuse of residents of penal facilities [940.29]
76. Intentional abuse or neglect to patients or residents of certain facilities (under circumstances likely to cause bodily harm) [940.295(3)(b)2.]
77. Reckless or negligent abuse or neglect of patients or residents of certain facilities (under circumstance likely to cause great bodily harm) [940.295(3)(b)3.]
78. Stalking (if the victim suffers fear of bodily injury or death, or if the defendant has certain prior convictions against the same victim) [940.32(2) & (2e)]
79. Interfering with fire fighters or a fire alarm system [941.12(1)]
80. Distributing, or possessing with intent to distribute, a hazardous substance, and knowing or having reason to know that the hazardous substance will be abused (excluding a person who distributes a hazardous substance in an ordinary course of business) [941.316(3)]
81. Placing foreign objects in edibles with intent to cause bodily harm [941.325]
82. Tampering with household products with intent to kill, injure or endanger [941.327(2)(b)1.]
83. False information concerning an act that constitutes tampering with household products [941.327(3)]
84. Intentional destruction of a vaccine or drug [941.33(1)]
85. Obstructing emergency or medical personnel with reasonable grounds to believe that the interference may endanger another's safety [941.37(3)]

Class I Felonies (continued)

86. Throwing or discharging bodily fluids at public safety workers or a prosecutor [941.375(2)]
87. Soliciting a child to participate in criminal gang activity [941.38(2)]
88. Invasion of privacy by viewing under or through clothing [942.08(3)]
89. Invasion of privacy when the victim is a minor [942.08(4)]
90. Unlawful visual representations depicting nudity [942.09(2)(am), (3m)(am), (4)(a), (5)(am), & (5)(b)]
91. Criminal damage to certain property [943.01(2)]
92. Criminal damage to plant research and development [943.01(2d)(b)]
93. Criminal damage to certain coin-operated or card-operated machines with intent to commit theft [943.01(2g)]
94. Damage or threat to damage property of a witness [943.011(2)]
95. Criminal damage to or graffiti on religious and other property [943.012]
96. Criminal damage to property of a judge [943.013(2)]
97. Criminal damage to property of a Department of Revenue employee [943.015(2)]
98. Graffiti to certain property [943.017(2)]
99. Graffiti to property of a witness [943.017(2m)(b)]
100. Arson of property other than a building (if the value of the property is at least \$100) [943.03]
101. Criminal damage to railroads [943.07(1) & (2)]
102. Possession of burglarious tools [943.12]
103. Theft (if the value of the property is more than \$2,500 but not more than \$5,000) [943.20(3)(bf)]
104. Unauthorized use or possession of a credit card scanner (intent for unauthorized use of identity or account information) [943.202(2)(a)]
105. Mail theft (if the number of pieces of mail is at least 10 but not fewer than 30) [943.204(3)(b)]
106. Theft of trade secrets [943.205(3)]
107. Unauthorized transfer of recorded sounds (if fewer than 1,000 records during a 180-day period and the value exceeds \$2,500) [943.207(3m)(b)]
108. Recording performance without consent of performance owner (if involving fewer than 1,000 sound recordings or 100 audiovisual recordings during a 180-day period and the value exceeds \$2,500) [943.208(2)(b)]
109. Failure to disclose manufacturer of recording (if fewer than 100 recordings during a 180-day period and the value exceeds \$2,500) [943.209(2)(b)]
110. Fraud on a hotel, restaurant keeper, or taxicab operator (if the value of the service exceeds \$2,500) [943.21(3)(am)2.]
111. Carjacking (driving a vehicle without the owner's consent), first offense [943.23(3)(a)]
112. Removing a major part of a vehicle without the owner's consent [943.23(5)]
113. Issuing worthless checks for more than \$2,500 [943.24(2)]
114. Removing or damaging encumbered real property (if the security is impaired by more than \$1,000) [943.26(2)]
115. Possession of records of certain usurious loans [943.27]
116. Threats to communicate derogatory information [943.31]
117. Knowingly or intentionally receiving stolen property (if the value exceeds \$2,500 but does not exceed \$5,000) [943.34(1)(bf)]
118. Fraudulent insurance or employee benefit claim (if the value exceeds \$2,500) [943.395(2)(b)]
119. Certain financial transaction card crimes [943.41(8)(b)]
120. Fraudulent use of financial transaction cards (if the value of the money, goods, services or property exceeds \$2,500 but does not exceed \$5,000 within a period not exceeding six months) [943.41(8)(c)]
121. Theft of telecommunications service (for direct or indirect commercial advantage or private financial gain), second or subsequent offense [943.45(3)(d)]
122. Theft of commercial mobile service (for direct or indirect commercial advantage or private financial gain), second or subsequent offense [943.455(4)(d)]
123. Theft of cable television service (for direct or indirect commercial advantage or private financial gain), second or subsequent offense [943.46(4)(d)]
124. Theft of satellite cable programming (for direct or indirect commercial advantage or private financial gain), second or subsequent offense [943.47(3)(d)]
125. Use of recording device in a movie theatre without written consent, second or subsequent offense [943.49(2)(b)2.]
126. Retail theft (if the value of the merchandise exceeds \$500 but does not exceed \$5,000) [943.50(4)(bf)]

Class I Felonies (continued)

127. Intentionally alter indicia of price or value, take/carry away, transfer, conceal, retain possession, remove theft detection device of merchandise or property without merchant's consent, and with intent to deprive the merchant permanently of possession or full purchase price, if all the following apply: (a) value of merchandise does not exceed \$500; (b) person agrees or combines with another to commit violation; (c) person intends to sell merchandise by means of the Internet [943.50(4m)]
128. Crimes against computer data or programs or against computers, computer equipment or supplies (if the offense is committed to defraud or to obtain property or while disguising the computer with intent to avoid being identified) [943.70(2)(b)2. & (3)(b)2.]
129. Unauthorized release of animals, third or subsequent offense [943.75(2)]
130. Money laundering (if the value of the proceeds is more than \$2,500 but not more than \$5,000) [943.895(3)(b)]
131. Transfer of encumbered property (if the value of the property does not exceed \$500, and the person has previously been convicted of burglary, possession of burglary tools, misappropriation, or a crime against financial institutions) [943.91(2)]
132. Bigamy [944.05(1)]
133. Adultery [944.16]
134. Patronizing a prostitute, third or subsequent offense [944.31(2)]
135. Unauthorized commercial gambling (except if violation involves five or less video gambling machines in a tavern) [945.03(1m)]
136. Unauthorized dealing in gambling devices (except if the violation involves a video gambling machine) [945.05]
137. Permitting seditious assembly [946.03(2)]
138. Special privileges from public utilities [946.11(1)]
139. Misconduct in public office [946.12]
140. Private interest in public contracts [946.13(1)]
141. Purchasing claims at less than full value [946.14]
142. Failure to comply with an officer's attempt to take a person into custody [946.415(2)]
143. Throwing or expelling blood, semen, vomit, saliva, urine, feces or other bodily substance at or toward an officer, employee, or visitor of the prison or facility or another prisoner of the prison or facility by a prisoner under certain circumstances [946.43(2m)(a)]
144. Tampering with or refusing, resisting, or obstructing the installation of a global positioning system tracking device or comparable technology [946.465]
145. Harboring or aiding a felon if offense was a Class E, F, G, H, or I felony, or an unclassified felony not punishable by life imprisonment [946.47(2m)(b)]
146. Bail jumping by a witness [946.49(2)]
147. Absconding after being adjudicated delinquent for a Class I felony [946.50(5t)]
148. Destruction of documents subject to subpoena [946.60]
149. Communicating with jurors [946.64]
150. Obstructing justice [946.65(1)]
151. Simulating legal process [946.68(1r)(a)]
152. Impersonating or falsely assuming to act as a public officer or employee [946.69(2)]
153. Premature disclosure of search warrant [946.76]
154. Illegal use of food stamps with a value over \$100, but less than \$5,000, first offense [946.92(3)(a)2.]
155. Illegal intent to secure public assistance (if the value exceeds \$2,000 but does not exceed \$5,000) [946.93(3)(e)4.]
156. Intentionally disrupting a funeral or memorial service, second or subsequent offense [947.011(3)(b)]
157. Harassment (if the person had a prior conviction for harassing the same victim that occurred within the last seven years) [947.013(1t)]
158. Swatting (intentionally conveying false information that an emergency exists, if the information elicits or could elicit a response from a specialized tactical team) [947.014(2)]
159. Bomb scares [947.015]
160. Threats to release chemical, biological, or radioactive substances [947.017(2)]
161. Terrorist threats [947.019(1)]
162. Physical abuse of a child (recklessly causing bodily harm) [948.03(3)(b)]
163. Exposing or causing a child to expose genitals, pubic area, or intimate parts for purposes of sexual arousal or sexual gratification [948.10(1)(a)]

Class I Felonies (continued)

164. Exposing a child to harmful material [948.11(2)(a)]
165. Exposing a child to harmful narratives or descriptions [948.11(2)(am)]
166. Possessing, accessing, exhibiting, or playing child pornography, if the actor is under 18 years old [948.12(3)(b)]
167. Intentionally capturing a representation of a minor by a sex offender, without the written consent of the minor's parent, legal custodian or guardian [948.14(3)]
168. Neglect of a child (if the natural and probable consequences of the violation would harm a child, although the harm did not actually occur, and the child is younger than six years of age or the child has a disability that was known or should have been known to the actor) [948.21(3)(e)]
169. Failure to support (for 120 or more consecutive days) [948.22(2)]
170. Concealing or not reporting death of child (if offense involved intent to prevent a determination of whether the child was born dead or alive, or failure to report to law enforcement the death of a child, if person is the parent, stepparent, guardian, or legal custodian and the death involves any of the following: (a) unexplained, unusual or suspicious circumstances; (b) is or appears to be a homicide or suicide; (c) is due to poisoning; or (d) follows an accident, whether the injury is or is not the primary cause of death) [948.23(1)]
171. Interference with custody of a child [948.31(2)]
172. Leaving a child unattended in a child care vehicle if the person is responsible for the child's welfare (causing bodily harm) [948.53(2)(b)2.]
173. Selling, loaning, or giving a dangerous weapon to a person under 18 years old [948.60(2)(b)]
174. Possession of a gun in or on school premises [948.605(2)(a)]
175. Possession of a dangerous weapon on school premises, second or subsequent offense within five years [948.61(2)(b)]
176. Receiving stolen property from a child (if the value is more than \$500 but not more than \$2,500) [948.62(1)(b)]
177. Mistreating an animal (causing mutilation, disfigurement, or death of the animal or if the animal is a police or fire department animal and the animal is injured) [951.18(1)]
178. Instigating fights between animals, first offense [951.18(2)]
179. Harassment of a police or fire department animal (causing injury to the animal) [951.18(2m)]
180. Harassment of a service dog (if intentionally causes injury to dog or recklessly causes death of dog) [951.18(2s)]
181. Manufacture, distribution or delivery of synthetic cannabinoids, 200 grams or less [961.41(1)(em)1.]
182. Manufacture, distribution or delivery of THC, 200 grams or less, or four or fewer plants containing THC [961.41(1)(h)1.]
183. Manufacture, distribution or delivery of a controlled substance included in schedule V [961.41(1)(j)]
184. Possession with intent to manufacture, distribute or deliver synthetic cannabinoids, 200 grams or less [961.41(1m)(em)1.]
185. Possession with intent to manufacture, distribute or deliver THC, 200 grams or less, or four or fewer plants containing THC [961.41(1m)(h)1.]
186. Possession with intent to manufacture, distribute or deliver a controlled substance included in schedule V [961.41(1m)(j)]
187. Manufacture, distribution or delivery of or intent to manufacture, distribute or deliver, a counterfeit substance included in schedule V [961.41(2)(d)]
188. Possession or attempted possession of a narcotic included in schedule I or II [961.41(3g)(am)]
189. Possession or attempted possession of cocaine or cocaine base, second or subsequent offense [961.41(3g)(c)]
190. Possession or attempted possession of lysergic acid diethylaminde, phencyclidine, amphetamine, methcathinone, methylenedioxypropylvalerone, 4-methylmethcathinone, psilocin or psilocylin, second or subsequent offense [961.41(3g)(d)]
191. Possession or attempted possession of THC, second or subsequent offense [961.41(3g)(e)]
192. Possession or attempted possession of synthetic cannabinoids, second or subsequent offense [961.41(3g)(em)]
193. Possession or attempted possession of methamphetamine or an analog of methamphetamine [961.41(3g)(g)]
194. Purchase of more than 7.5 grams of pseudoephedrine contained in a pseudoephedrine product within a 30-day period (does not apply to a physician, dentist, veterinarian, or pharmacist, or purchase authorized by physician, dentist or veterinarian) [961.41(3j)]
195. Distribution or delivery of imitation controlled substance [961.41(4)(am)3.]
196. Keeping of a drug house [961.42(2)]

Class I Felonies (continued)

197. Knowingly solicit, hire, direct, employ or use another to purchase a pseudoephedrine product on his or her behalf, with the intent to acquire more than 7.5 grams of a pseudoephedrine product within a 30-day period [961.453(1)(b)1.]
198. Purchase a pseudoephedrine product on behalf of another with the intent to facilitate another person's manufacture of methamphetamine [961.453(2)]
199. False statement to qualify for assignment of a Public Defender [977.06(2)(b)]

Unclassified Felonies

1. Intentional disclosure of confidential mental health records for pecuniary gain [51.30(10)(bm)]
2. Intentional disclosure of confidential health care records for pecuniary gain [146.84(2)(c)]
3. Intentional disclosure of confidential blood test results for pecuniary gain [252.15(9)]
4. Felony murder [940.03]

APPENDIX III

2009 Act 28 Sentencing Modifications (Repealed in 2011 Act 38)

This appendix describes the sentencing modifications that were enacted in 2009 Act 28, but later repealed under 2011 Act 38. In addition to the provisions below, Act 38 repealed the language related to the naming of the Earned Release Review Commission (ERRC). As a result, the Earned Release Review Commissions' name was returned to the Parole Commission. The expanded authority given to the Commission under Act 28 was also returned to its previous scope under Act 38.

Positive Adjustment Time. Act 28 created "positive adjustment time" to allow certain inmates to earn earlier release from prison by not violating any prison regulations and not refusing or neglecting to perform required or assigned duties.

Individuals eligible for positive adjustment time were generally divided into three categories: (a) offenders convicted of non-violent Class F to I felonies who are not determined by the Department of Corrections to be at high-risk of reoffending after applying an objective risk assessment instrument supported by research; (b) offenders convicted of violent Class F to I felonies, or determined to be high-risk of reoffending; and (c) offenders convicted of Class C to E felonies. Individuals who were sentenced for certain offenses were excluded from positive adjustment time, including all sex offenses requiring registration with the sex offender registry.

An inmate's sentence would be adjusted depending on the category of offender. Offenders convicted of non-violent Class F to I felonies not considered high-risk could earn one day of positive adjustment time for every two days served without violation of a prison regulation, or refusal or neglect to perform required or assigned duties. Offenders convicted of violent Class F to I felonies, or

non-violent Class F to I felonies considered high-risk, could earn one day of positive adjustment time for every three days served. Finally, offenders convicted of Class C to E felonies could earn one day of positive adjustment time for every 5.7 days served.

When the first category of offender (non-violent Class F to I felonies not considered high-risk) was within 90 days of release to extended supervision, the Department was required to notify the sentencing court that it intended to modify the inmate's sentence and release the inmate to extended supervision. If the court decided to hold a review hearing, the court was required to schedule the hearing within 30 days after notification. A hearing would be held and an order issued relating to the inmate's sentence modification within 60 days of notification. At the hearing, the court could consider the inmate's conduct in prison, his or her level of risk of reoffending based on a verified, objective instrument, and the nature of the offense committed by the inmate. The court could accept the Department's determination that the inmate had earned positive adjustment time, or order the inmate to remain in prison for a period of time that did not exceed the time remaining on the inmate's term of confinement. If the court did not schedule a hearing, or if the court accepted the Department's determination at the hearing, the Department was required to release the inmate to extended supervision.

For the other categories of offenders (violent Class F to I felonies, non-violent Class F to I felonies considered high-risk, or Class C to E felonies), offenders could petition the Earned Release Review Commission (Parole Commission) for release to extended supervision when he or she had served the term of confinement in prison portion of his or

her bifurcated sentence, less positive adjustment time earned. The ERRC could consider any of the following as grounds for a petition for release to extended supervision: (a) the inmate's treatment, or other correctional programs since he or she was sentenced; (b) if the inmate was subject to a sentence of confinement in another state or the inmate was in the United States illegally and could be deported; or (c) if sentence adjustment was otherwise in the interests of justice. The ERRC was required to follow the same notification, hearing, and disposition processes as required by the court for non-violent and non-high-risk Class F to I felons.

Inmates who were released to extended supervision based on positive adjustment time would have their term of extended supervision increased so that the total length of the bifurcated sentence would not change.

An inmate who earned positive adjustment time or was given a risk reduction sentence between October 1, 2009, and August 3, 2011, is exempt from the repealing legislation, 2011 Act 38, and remains eligible for sentence modification. A list of offenses ineligible for the repealed sentencing modifications can be found in the 2011 Legislative Fiscal Bureau Informational Paper 56 entitled, "Felony Sentencing and Probation," Appendix V.

Risk Reduction Program

Under 2009 Act 28, whenever a court imposed a bifurcated sentence, the court could order the person to serve a risk reduction sentence if: (a) the court determined that a risk reduction sentence was appropriate; and (b) the person agreed to cooperate in an assessment of his or her criminogenic factors and risk of reoffending, and to participate in programming or treatment the Department developed for the person. The risk reduction sentence was not a separate sentence imposed by the court, but rather a court-determined means to identify offenders at sentencing who, if successfully completing programming or treatment, could have their bifurcated sentence reduced.

Under the risk reduction program, the Department was required to: (a) provide programming and treatment for inmates sentenced to risk reduction; (b) conduct a validated and objective assessment of the inmate's criminogenic factors and risk of reoffending; and (c) develop a program plan for the inmate that is designed to reduce the risk and address the factors identified. The Department could modify the plan. If the Department determined that the inmate has completed the programming or treatment under the plan and that the inmate maintained a good conduct record during confinement, the Department was required to release the inmate to extended supervision when he or she has served not less than 75% of the term of confinement. Not less than 30 days prior to release, the Department was required to notify the sentencing court that the inmate had thus far successfully completed the requirements of his or her risk reduction sentence. If the inmate was released early after successfully completing the risk reduction program, his or her overall sentence was reduced.

An inmate who earned positive adjustment time or was given a risk reduction sentence between October 1, 2009, and August 3, 2011, is exempt from the repealing legislation, 2011 Act 38, and remains eligible for sentence modification. As of September, 2022, 28 inmates were eligible for a risk reduction sentence modification. A list of offenses ineligible for the repealed sentencing modifications can be found in the 2011 Legislative Fiscal Bureau Informational Paper 56 entitled, "Felony Sentencing and Probation," Appendix V.

Certain Early Releases. As discussed under the Truth-in-Sentencing II section of this paper, beginning February 1, 2003, inmates serving a bifurcated sentence, other than a Class B felony, may petition the sentencing court to adjust his or her sentence if the inmate has served at least 75% of a Class F to I felony, or 85% of a Class C to E felony. Under Act 28, this sentence modification option only applied to inmates serving bifurcated sentences imposed prior to October 1, 2009. Inmates serving

bifurcated sentences who were convicted on or after October 1, 2009 were ineligible for this option. Act 28 created a new option for modifying bifurcated sentences.

Under the certain early releases option, the Department could release inmates to extended supervision if all the following conditions were met: (a) the person was serving time for a non-violent Class F to I felony; (b) the prison social worker or extended supervision agent of record had reason to believe that the person could maintain himself or herself while not confined without engaging in assaultive activity; and (c) the release to extended supervision date was not more than 12 months before the person's extended supervision eligibility date. If an inmate was released early, his or her term of extended supervision was increased so the overall length of the bifurcated sentence did not change.

Inmates who were serving bifurcated sentences imposed prior to October 1, 2009, and who met the criteria for the certain early releases option, could choose to modify their sentence under the prior modification provision (75% or 85%), or the certain early releases provision.

The repealing legislation, 2011 Act 38, eliminated the certain early releases sentencing option, but maintained the option for eligible inmates to petition for sentence adjustment after serving the requisite amount of confinement time (75% of a Class F to I felony and 85% of a Class C to E felony). Under Act 38, this option was also extended to offenders sentenced after October 1, 2009.

Earned Release and Challenge Incarceration Programs. As discussed earlier in this paper, Act 28 expanded the earned release program and the challenge incarceration program from substance abuse treatment programs to more general rehabilitation programs. Act 38 repealed these expansions and changed the name of the earned release program to the Wisconsin substance abuse program.

Discharge from Extended Supervision. Act 28 provided that the Department may discharge a person from extended supervision after he or she had served two years of extended supervision, if the person met the conditions of extended supervision and the reduction was in the interests of justice. The Department was required to notify any victim(s) of the person of its intent to discharge the person from extended supervision. The Department could promulgate rules establishing guidelines and criteria for the exercise of discretion for discharge. The repealing legislation, 2011 Act 38, requires each offender to serve his or her entire bifurcated sentence. With the enactment of Act 28, 66 offenders were discharged from extended supervision.

Discharge from Probation. Act 28 also authorized the Department to modify an offender's probation term and discharge the offender from probation if the offender completed 50% of his or her probation period. The repealing legislation, 2011 Act 38, amended the law to provide that, upon petition from the Department, the sentencing court may modify a person's probation period if certain statutory criteria are satisfied (including serving 50% of their probation period, satisfying all conditions set by the sentencing court and the Department, and fulfilling all financial obligations).

APPENDIX IV

Offenses Included Under "Three Strikes" Law, "Two Strikes" Law, Parole Eligibility and Mandatory Release*

("x" means the provision applies to the offense)

OFFENSE	"Three Strikes" 939.62(2m)(b)1.	"Two Strikes" 939.62(2m)(b)2.	Parole Eligibility 973.0135	Mandatory Release 302.11(1g)
First-degree intentional homicide	x		x	
First-degree reckless homicide	x		x	x
Felony murder (15 years in addition)	x		x	x
Second-degree intentional homicide	x		x	x
Homicide by intoxicated use of a vehicle	x		x	x
Partial-birth abortion	x		x	
Great bodily harm with intent to cause great bodily harm (Battery-Aggravated)	x		x	x
Battery to an unborn child causing great bodily harm with intent to cause great bodily harm	x		x	x
Mayhem	x		x	x
First-degree sexual assault	x		x	x
Second-degree sexual assault	x		x	x
Hostage taking	x		x	
Hostage taking with hostages released without bodily harm	x		x	x
Kidnapping	x	x**	x	x
Product tampering with intent to kill, injure or endanger safety or health, or injure or damage business which results in death	x		x	
Arson of building or damage of property by explosives	x		x	x
Armed burglary, burglary with battery, or burglary when another person is lawfully present	x		x	x
Carjacking by use or threat of a dangerous weapon	x		x	x
Armed robbery by use or threat of a dangerous weapon	x		x	x
Assaults by prisoners	x		x	x
Certain physical abuse of an elder person	x		x	x
First-degree sexual assault of a child	x	x	x	x
Second-degree sexual assault of a child	x	x	x	x
Failure to act to prevent sexual assault of a child		x		
Repeated sexual assault of the same child	x	x	x	x
Physical abuse of a child (causing death, great bodily harm, a high probability of great bodily harm, or repeated acts of physical abuse of the same child)	x		x	x
Sexual exploitation of a child	x	x	x	x
Human trafficking of a child		x	x	
Causing a child to view or listen to sexual activity		x		

OFFENSE	"Three Strikes" 939.62(2m)(b)1.	"Two Strikes" 939.62(2m)(b)2.	Parole Eligibility 973.0135	Mandatory Release 302.11(1g)
Incest with a child	x	x	x	x
Child enticement	x	x	x	x
Using a computer to facilitate a child sex crime	x		x	
Soliciting a child for prostitution	x	x	x	x
Patronizing a child	x	x		
Sexual assault of a child placed in substitute care	x	x		
Sexual assault of a student by a school staff person or person who works or volunteers with children		x		
Abduction of another's child by use or threat of force	x	x	x	x
Abduction of another's child without force		x		
Solicitation, conspiracy or attempt to commit Class A felony	x		x	x
Manufacture, distribution or delivery of a controlled substance that is a Class A, B or C felony or, if the felony was committed before February 1, 2003, that is or was punishable by a maximum prison term of 30 or more years	x		x	x
Possession with intent to manufacture, distribute or deliver a controlled substance that is a Class A, B or C felony or, if the felony was committed before February 1, 2003, that is or was punishable by a maximum prison term of 30 or more years	x		x	x
Conspiracy to manufacture, distribute or deliver, or conspiracy to possess with intent to manufacture, distribute or deliver a controlled substance that is a Class A, B or C felony or, if the felony was committed before February 1, 2003, that is or was punishable by a maximum prison term of 30 or more years	x		x	x
Possessing materials to manufacture methamphetamine	x			
Crime under federal law or the law of another state that is substantially similar	x	x	x	
Prior Wisconsin law that is comparable to current law	x	x	x	

*This Appendix includes offenses found in current statutes (and not repealed statutes). However, it important to note that: (a) repealed statutes still apply if the offense was committed while the statute was in effect; and (b) the statute of limitations may not have passed for certain repealed offenses.

** If the victim was a minor and the convicted person was not the victim's parent.

APPENDIX V

Offenses Requiring Mandatory Minimum Confinement in Prison

Offense	Minimum Prison Time	Statutory Cites
Operating a motor vehicle under the influence of an intoxicant or other drug, 5 or 6 violations	1 year and 6 months	346.63(1) 346.65(2)(am)5.
Operating a motor vehicle under the influence of an intoxicant or other drug, 7, 8, or 9 violations	3 years	346.63(1) 346.65(2)(am)6.
Operating a motor vehicle under the influence of an intoxicant or other drug, 10 or more violations	4 years	346.63(1) 346.65(2)(am)7.
Homicide by intoxicated use of a vehicle	5 years*	940.09(1) & (1c)
Sexual contact or sexual intercourse with a person who has not attained the age of 13 years old, and causes great bodily harm to the person	25 years	948.02(1)(am) 939.616(1g)
Engaging in repeated acts of sexual assault of the same child, if at least 3 of the violations were of s. 948.02(1)(am)	25 years	948.025(1)(a) 939.616(1g)
Sexual intercourse with a person who as not attained the age of 12 years old	25 years	948.02(1)(b) 939.616(1r)
Sexual intercourse with a person who has not attained the age of 16 years old, by use or threat of force or violence	25 years	948.02(1)(c) 939.616(1r)
Engaging in repeated acts of sexual assault of the same child, if at least 3 of the violations were of s. 948.02(1)(am), (b), or (c)	25 years	948.025(1)(b) 939.616(1r)
Sexual contact with a person who has not attained the age of 16 years old, by use or threat of force or violence, if the actor is at least 18 years old when contact occurs	5 years	948.02(1)(d) 939.616(2)
Engaging in repeated acts of sexual assault of the same child, if at least 3 of the violations were of s. 948.02(1)(am), (b), (c), or (d)	5 years	948.025(1)(c) 939.616(2)
Sexual exploitation of a child	5 years*	948.05 939.617
Use of a computer to facilitate a child sex crime	5 years*	948.075 939.617
Possession of child pornography	3 years*	948.12 939.617

Offense	Minimum Prison Time	Statutory Cites
Repeat serious sex crimes (defined as first- or second-degree sexual assault, if actor has one or more prior convictions for first- or second-degree sexual assault)	3 years and 6 months	940.225(1) & (2) 939.618
Repeat serious violent crimes (defined as first- or second-degree reckless homicide, felony murder, second-degree intentional homicide, homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, hostage taking, kidnapping, certain household products tampering, arson, carjacking by use or threat of a dangerous weapon, certain robbery, certain child abuse, trafficking or abducting child by use or threat of force)	5 years	939.619
Certain repeat firearm crimes	4 years**	939.6195(2) & (3)

*The court may impose a sentence less than the minimum sentence required, or place the person on probation, if the court finds that the best interests of the community will be served and the public will not be harmed, and if the court places its reasons on the record. Further, if the offender is convicted of: (a) sexual exploitation of a child, the offender cannot be more than 48 months older than the child who is the victim of the violation; or (b) possession of child pornography, the offender cannot be more than 48 months older than the child who engaged in the sexually explicit conduct. The minimum sentence provision does not apply if the offender was under 18 when the violation occurred.

**This mandatory minimum only applies to sentences imposed on or before July 1, 2022.